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All letters intended for publication must be authenticated by the name of the writer.

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**Current Topics.****The Military Service Act.**

THE Military Service Act, 1916, and other statutes recently passed (*ante*, p. 355) have now been issued. We have been asked to print the text of the Military Service Act at once, but this does not seem necessary. It will be printed soon under "Statutes," in the ordinary course, and it does not differ materially from the final form of the Bill which we printed a fortnight ago (*ante*, p. 241). In fact, the only changes are as follows:—In section 2 (3) and Schedule I., par. 6, "combatant service" has been substituted for "combatant duties," and section 3 (1) now runs as follows:—

It shall be the duty of any man holding a conditional certificate, if the conditions on which the certificate was granted are no longer satisfied, to give notice to the authority mentioned in the certificate that the conditions are no longer satisfied; and if he fails without reasonable cause or excuse to do so, he shall be liable on summary conviction to a fine not exceeding fifty pounds.

**The Military Service Regulations.**

REGULATIONS WITH respect to the constitution, functions and procedure of the Local Tribunals, the Appeal Tribunals, and the Central Tribunal under the Act have been issued by Order in Council, to be known as the Military Service (Regulations) Order, 1916. They are too long for us to print, but they can be obtained from Messrs. Wyman & Sons (Limited), 29, Breems-buildings, Fetter-lane, E.C., for 1d. The appointed date under the Act is the twenty-first day after 10th February, when the Act came into operation; that is, 2nd March, and claims for exemption must be made before that date. An extension of time can only be allowed on the ground of absence abroad or some other special cause considered reasonable by the tribunal. Applications to the Local Tribunal will be heard in public, unless a hearing *in camera* is specially ordered. A military representative will have the right to appear as a party to every application heard by the Local Tribunal. Applications for exemption on grounds of business or employment must be made to the Local Tribunal where the business or employment is situate; but where a business is carried on within the area of more than one tribunal, the employer may make application for any of his

men to the tribunal for the area where his head office is situate. Otherwise the application is made where the applicant resides. Rule 16 is important:—

16.—(a) For the purpose of ascertaining the facts relevant to the decision of an application, the Local Tribunal may hear such witnesses as they think fit, provided that they shall in all cases hear the parties to the application, and the man in respect of whom the application is made, or those of them who appear.

(b) The applicant may conduct his own application or may be represented by any person appointed by him for that purpose, and all parties to an application and their representatives (if any) shall confine themselves to the presentation of evidence and the elucidation of facts relevant to the decision of the application.

(c) Any party to an application or his representative, and the representative of any Government department concerned in an application who has been generally or specially authorized for the purpose by the department, may put relevant questions to any party to the application or to any witnesses admitted by the Local Tribunal to be heard, and may place any facts relevant to the application before the Tribunal.

(d) It shall be competent to the Local Tribunal, if they think fit, to cause to be read at the hearing and to take into consideration any written statement sent by a party to the application who does not appear or is not represented at the hearing, or sent by the man in respect of whom the application is made.

Forms of application, &c., will be prescribed by the Local Government Board.

#### The Increase of Rent, &c., Rules.

WE PRINT elsewhere a set of rules which have been issued under the Increase of Rent, &c. (War Restrictions) Act, 1915. Under the Act various questions are to be determined by the county court—as to the effect of a transfer of burdens from landlord to tenant or *vice versa* (section 1 (1) (iii.)), or as to the apportionment of rent (section 2 (3)), or as to a mortgage security being in jeopardy (section 1 (4), proviso 2)—and rules 1 and 2 provide for applications in such cases. Section 3 adjusts the Courts (Emergency Powers) Rules to the present rules. The remaining rules are subsidiary. Any application may be made to the Registrar, and in certain cases it will be referred to the Judge. Affidavits may not be used except by leave of the Court, but the Court will hear oral evidence, and cases may be heard in private. Rule 16 fixes the court fees, and rule 17 places costs in the “absolute discretion” of the Court; and the Court may either fix the amount, or allow costs on the scale for interlocutory applications. There is an Appendix of eight Forms.

#### The Assessment of Licensing Compensation.

In *Re v. Sheffield Justices, Ex parte Morrison* (Times, 14th January), the Divisional Court had to consider a novel point as to the assessment of compensation for the extinction of a licence for redundancy. The mode of assessing this compensation is quite clearly laid down in the Licensing Rules, 1910. The joint effect of rules 29, 30, and 31 is that the parties interested in the licence may submit to the Compensation Authority for its approval an amount of compensation money agreed upon among themselves, and the authority can either approve or disapprove of it. If they approve, the share of each person interested is settled by the authority. Otherwise, the authority may either adjourn the meeting until the amount has been so determined, so that they may then settle the shares, or may settle the proportions at once, if no one will be prejudiced thereby. But if the amount is not so settled, then notice is given to the Inland Revenue Commissioners, and they determine it. Now, in the present case, the parties interested in the property could not agree as to the amount, and told the Compensation Authority so. But that body thought they ought to agree, and kept adjourning the hearing from time to time with the avowed intention of putting pressure on them to do so, although requested by all parties to send a notice to the Inland Revenue Commissioners as provided in rule 31. Finally the parties applied to the Divisional Court for a writ of mandamus ordering the authority to send the necessary notice to the Commissioners; and the Court made absolute a *rule nisi* so directing them. The Compensation Authority appear to have considered that they had the best means of determining the value of the property, and therefore could adjourn the matter under rule 30 indefinitely in order to compel the parties

to put before them a figure which they could approve. But this is to carry the rule too far. If the parties have no intention of agreeing, they can resort to their right, under the rules, of assessment by the Commissioners.

#### Newspaper Criticism on Public Men.

IN no previous case with which we are acquainted has any court expressed in such emphatic terms the distinction between the public and private life of a citizen as a legitimate subject of criticism in the press as has just been done by the House of Lords in *John Levy & Co. (Limited) v. Langlands* (Times, 22nd ult.). A newspaper had commented strongly on the position of a School Board's architect under the agreement between him and the Board; apparently a clause in the agreement provided that repairs and alterations should be given to the architect, whereas new buildings should be thrown open to competition among contractors. This arrangement the newspaper regarded as putting a premium on a certain kind of advice. The architect sued for libel, on the ground that this suggestion was an imputation on his character; he was met by the defence of “fair comment on a matter of public interest,” and “no innuendo of libel.” The judge of first instance took the view that, *prima facie*, there was no question to go to the jury, and this view the House of Lords sustained. In the case of an attack on a man's private character, it was held, any words apparently imputing improper motives will be, *prima facie*, construed to shew malice in law, and to be actionable; the defendant must rebut this inference, and prove his plea of fair comment. But where a man's public character alone is the subject of attack, there is an implied right to comment on it in the public interest, and such criticism is presumed to be intended for the public benefit. Therefore, malice in law will not be presumed, and evidence must be given of malice in fact.

#### The War Condition in Probates.

AT THE beginning of the war the Probate Registry introduced a novel condition in the grant of probates and letters of administration. These were only issued on condition that no part of the assets should be distributed or paid during the war to any beneficiary or creditor, wherever resident, who was a German or Austro-Hungarian. To this condition there were, as we pointed out at the time (59 SOLICITORS' JOURNAL, 149), two objections: it was improper, and it was embarrassing. It was improper because it was an intrusion by the Probate Registry without authority into a proviso already covered by legal principle and the Emergency Legislation. Nothing is better settled than that persons resident and carrying on business in a country take, for war purposes, the national character of that country (*The Harmony*, 1800, 2 Ch. Rob. 322; *The Indian Chief*, 1801, 3 Ch. Rob. 12; *The Johanna Emilie*, 1854, Spinks, Pr. Cas. 12; *The Baltica*, 1855, *ibid.* 264, and many other cases might be cited). Hence, ever since the outbreak of war, enemy subjects resident and carrying on business here have had the same rights as British subjects to make and receive payments, subject only to special legislation, and we do not remember any statutory provision on this point. In accordance with the rule just stated, “enemy” in the Emergency Legislation means persons of whatever nationality, resident or carrying on business in an enemy country. Hence any action of the Probate Registry designed to interfere with this clear rule seems to have been *ultra vires*. As we have frequently pointed out, the only thing to be guarded against is the transmission of money to the enemy countries, and that is prevented by the common law against commercial intercourse with the enemy, and the Trading with the Enemy Acts and Proclamations.

#### Evidence of Observance of the Condition.

BUT THE action taken, as stated above, by the Probate Registry was also embarrassing, for a conditional grant such as the officials introduced was a novelty, and no one could tell with certainty whether a probate or grant of administration in this form could be safely recognized by third parties. If there

had been a breach of the condition, was the grant *ipso facto* revoked, or was it good until express revocation? We suggested, in discussing the point, that it was safer to assume that the grant was *ipso facto* revoked, and, upon any dealing with the executor or administrator, to require proof that there had been no breach; proof which might be given by statutory declaration. We understand that the point was recently raised before COLERIDGE, J., in a case in which an insurance company required such evidence before paying policy moneys to the executor of the assured. On production of the probate they offered to pay subject to the executor's solicitors giving a "letter as to the non-revocation of the probate." This, no doubt, was meant to avoid formal proof, and to facilitate matters; but the solicitors declined to give such a letter as was required, and an action was commenced to recover the policy moneys. Ultimately it was settled on the terms of the plaintiff's counsel undertaking for his client that nothing had been done in contravention of the condition on the probate, and of the company paying the policy moneys, each party to bear their own costs. Had the matter stopped there, it would have produced no useful result; but it was also arranged that the Judge should express his view as to the meaning of the condition, and in doing so COLERIDGE, J., said that the company were entitled to some undertaking, either by the executor or his solicitor, that nothing had been done to invalidate the grant; and that, but for the agreement to accept an undertaking by counsel on behalf of his client, they would have been entitled to a formal declaration. This appears to be an indorsement of the suggestion which we originally made.

#### Gas Agreements and Lighting Restrictions.

THE DISTINCTION between "executed" and "executory" contracts in connection with the doctrine of "release by impossibility of performance," came up before Low, J., in *Leiston Ggs Co. (Limited) v. Leiston-cum-Sizewell U.D.C.* (*Times*, 2nd inst.). A gas company had entered into a continuing agreement with a district council, by which it was to put down gas plant and lamps for lighting the streets of the council's area, and was to supply gas to these lamps at an agreed rate. Needless to say, under the Defence of the Realm Consolidation Act, 1914, and the Orders made thereunder, the proper military authorities have power to direct that street lights shall be diminished in quantity or altogether stopped. In the present case a direction was given which in substance rendered any further supply of gas for lighting the street lamps unnecessary so long as the regulations continued. Thereupon the council claimed that the agreement had terminated "by subsequent impossibility of performance," and that they were entitled to treat it as at an end, and make no further payments for the use of the lamps. Now two well-known series of cases, the *Coronation Seat* cases of twelve years ago, and the *Voyage* cases during the present war, have established beyond any doubt the correctness of the rule in *Baily v. De Crespigny* (L. R. 4 Q. B. 180), that a contract is automatically terminated by subsequent impossibility of performance; except where one party warrants the continuance of his power to perform it, or where by his own default he brings about the impossibility of so performing it. To such "impossibility" as results from a physical change not contemplated by the parties, or from a statutory change in legal possibility, *Esposito v. Bowden* (7 E. & B. 764), which has been followed in recent cases, added changes due to the effect of war in rendering a lawful contract unlawful, or otherwise making illegal its continued performance. But there is really no analogy between such cases as these and the present case, in which the contractual arrangements for lighting the streets are only temporarily modified or suspended by the operation of war restrictions, and the contract may at any moment be again operative. Moreover, the fact that the gas company had under the contract to supply the lamps, and had in fact supplied them, and that it was impossible to divide the charge per lamp between plant and gas, made the contract, in the opinion of Low, J., an executed contract, so that it could not be altogether avoided.

#### Liability for Imported Police.

THE ACTUAL legal point which arises out of a semi-constitutional struggle is often extremely finical. An admirable example of this well-known peculiarity of our constitutional law is afforded by *Glamorgan Coal Co. (Limited) v. Glamorgan County Council and Standing Joint Committee* (*Times*, 7th inst.). A coal strike in the Rhondda Valley in 1910 led to disorders on the part of the strikers. For reasons into which we need not enter, adequate local police protection was not forthcoming, and the coal company obtained, from local authorities and from the Metropolitan Police Force, the aid of additional police, whom they paid and housed on the strength of an undertaking from the Chief Constable of Glamorganshire that they should be reimbursed out of the county fund. Now, in counties the police are controlled by a Standing Joint Committee of the County Council and the justices in Quarter Sessions, as the result of the County Police Act, 1839, and the Local Government Act of 1888; but under the earlier statute a Chief Constable is appointed as their agent in the maintenance, selection, control, and discipline of the force. Under section 18 of the Act of 1839, the police authority for any county area can get the assistance of police in other areas by entering into what is called an "aiding agreement" with the police authority of that other area; and in that case, of course, a proper agreement to pay for their services is *intra vires* and actionable. In the Metropolitan Police Area, the Home Secretary is, under the Metropolitan Police Acts, the "Police Authority" for that area, and acts through a Commissioner of Police, who has assistant-commissioners and subordinate chief constables.

#### Retrospective Contracts by a Statutory Agent.

DURING THE trouble caused by the Rhondda Valley disputes there was a political difficulty about granting the assistance of the military to quell the strikes, and accordingly the Home Secretary decided to send down Metropolitan police instead of granting the aid of the military. He did so without entering into an agreement with the Chief Constable of Glamorganshire, but afterwards a retrospective sanction to the arrangement was given by that officer without the assent of his Council or Joint Committee. At the same time he sanctioned similar "aiding agreements" with other local authorities who lent their police, and on the faith of his implied request and promise to secure reimbursement, the coal company paid the immediate expenses incurred under the agreements. Obviously they could only recover against the county fund if there were proper "aiding agreements," and as regards the provincial authorities, these had been duly made by the Chief Constable in his capacity as agent. But in the case of the Metropolitan police there was the further question whether a "retrospective agreement" of this kind could be made after the services had been rendered. We should have imagined, on the strength of *Lamplough v. Braithwait* (1 Smith L. C. 141), that a subsequent promise to pay for a service rendered under circumstances which imply a right to a *quantum meruit*, was in law a valid agreement. But the Court of Appeal have held otherwise, and have disallowed the expenses incurred in respect of the Metropolitan police.

#### Restrictive Covenants and the Letting of Houses

IN A recent letter to the *Times*, headed "Ground Leases and Tenants," the writer, after suggesting that many houses are standing empty owing to restrictions on the letting in the ground lease, refers to the case of a house on the main road, just outside London, with seventeen bedrooms, large reception rooms, and a large garden. The owner of this house is unable to accept a tenant whose references are unexceptionable, because he wishes to use the house as a rest-cure home for a number of officers. There is a clause in the lease that the house can only be used as a ladies' school, or for a doctor, surgeon, solicitor, or as a private residence. To waive the clause it is necessary to obtain the consent of adjoining owners; only one

refuses, but without his consent the ground landlord does not feel called upon to give permission. In the result the house remains unlet, though the rent has been reduced from £260 to £160, and the ground rent of £52 will have to be paid for the next fifty years. The grievance of this correspondent seems really to be that there should be changes in the value of property. A lessor who has many houses in the neighbourhood insists on the insertion of a restrictive covenant in leases, thinking that what might happen in any one house would lower the rentals of his adjoining property. But large houses in certain districts cease to become attractive as residences, and the restriction, which was intended to preserve their value, has the opposite effect when it is proposed to utilise them as homes or boarding-houses. The remedy is to facilitate the getting rid of such covenants when they have become inappropriate.

#### The Memory of Great Lawyers.

LORD REDESDALE, in the second volume of his "Memories," gives instances of the prodigious memory of Lord LYNTHURST, which was rather grudgingly admitted by Lord CAMPBELL in his "Lives of the Lord Chancellors." In the same volume we are told that Sir ALEXANDER COCKBURN, though he had been junior counsel in a certain *cause célèbre*, was afterwards heard to say that he knew nothing about it. But the memory of the Lord Chief Justice, which enabled him to sum up the evidence in the *Tichborne* case with little or no assistance from his notes, was of a peculiar kind. One of the law reporters who sat for some years in his court has told us, that although Sir ALEXANDER easily mastered the facts in a complicated case, he forgot all about it a few weeks afterwards. His memory was wholly unlike that of his colleague, Lord BLACKBURN, who, upon a motion for a new trial in a case tried before him on circuit, was suddenly, while sitting *in nisi prius*, summoned to the full court, and was then able, without any preparation, to give a clear and minute account of what had occurred at the trial. Feats of memory were not the exclusive possession of Lord MACAULAY, who could, if we remember rightly, at a moment's notice say his Popes backward.

### The Liberty of the Subject.

WE cannot predict with certainty how future constitutional lawyers will regard the decision of the Court of Appeal in *Zadig's case*, *R. v. Halliday* (*Times*, 10th inst.). We are in the midst of a conflict which engrosses the national mind and energies, and the things which Englishmen have held dear are being one by one set aside. We may refer, without comment, to the denial of the right of public discussion, and the introduction of compulsory military service. Parliament appears to condone the one, and it has accepted the other with full knowledge of what it was doing. But with the right to personal liberty which was in question in *Zadig's case* it is different. That is the result of legislation originally passed in a hurry—we refer to the first Defence of the Realm Acts (8th and 28th August, 1914)—and confirmed three months later by the Defence of the Realm Consolidation Act, 1914, when, we believe, the Legislature had no appreciation of the use to which it might be put. Section 1 (1) of that Act is as follows:—

His Majesty in Council has power, during the continuance of the present war, to issue regulations for securing the public safety and the defence of the realm . . . and may by such regulations authorize the trial by courts-martial, or in the case of minor offences by courts of summary jurisdiction, and punishment of persons committing offences against the regulations, and in particular against any of the provisions of such regulations designed—

Then follow a series of specific matters with which the regulations were to deal, such as communication with the enemy for the purpose of assisting him, &c.

The statute does not expressly point to the interference with the liberty of the subject otherwise than after trial by court-martial or by magistrates for an offence against the regulations,

and at first no one seems to have suspected that it could be used for this purpose; and even as regards courts-martial, it was seen that it had gone too far. The House of Commons, indeed, did not intervene, but Lord PARMOOR and others in the House of Lords realized that something else was at stake than the war with Germany—possibly something even more important—and the Amendment Act of 1915, passed on 16th March, gave to every British subject the right to trial by a civil court instead of court-martial. This might have been taken as an intimation that the Emergency Legislation was to be used with caution, but later in the year the popular outcry for the internment of alien enemies—which, if we remember rightly, Mr. McKENNA, when Home Secretary, had very creditably resisted—became successful, and was extended even to the internment of British subjects. Sir JOHN SIMON, when he succeeded Mr. McKENNA, was willing to carry out the more rigorous policy, and he was responsible for the new Defence of the Realm Regulation 14B, which is as follows:—

Where, on the recommendation of a competent naval or military authority . . . it appears to the Secretary of State that, for the securing of the public safety or the defence of the realm, it is expedient in view of the hostile origin or associations of any person that he shall be subjected to such obligations and restrictions as are hereinafter mentioned, the Secretary of State may by order require that person forthwith . . . to be interned.

A safeguard was provided in the case of persons who were not alien enemies by allowing an appeal to one of the advisory committees, but this gave no right to a public hearing, and did not mitigate the gravity of the infringement of the liberty of the subject.

How many British subjects have been interned under this rule we do not know. We took occasion at once to question its legality (59 SOLICITORS' JOURNAL, p. 557), and we are glad that it has been contested, although unsuccessfully. We noticed a fortnight ago (*ante*, p. 233) the adverse decision of the Divisional Court (Lord READING, L.C.J., LAWRENCE, ROWLATT, ATKIN and LOW, JJ.), and now that decision has been confirmed by the Court of Appeal (SWINFEN EADY, PICKFORD and BANKES, L.J.J.). We are quite ready to admit that the words of the Defence of the Realm Act make this result possible. As appears from the passage we have quoted, regulations may be made "for securing the public safety and the defence of the realm," and it looks as though this might include the arrest and imprisonment of any person whom the Government consider to be dangerous to the State. But in *Arthur v. Bokenham* (11 Mod. 148) it was said by TREVOR, C.J., at p. 150, in delivering the judgment of the Court of Common Pleas:—

The general rule in the exposition of all Acts of Parliament is this—that in all doubtful matters, and where the expression is in general terms, they are to receive such a construction as may be agreeable to the rules of the common law, in cases of that nature; for statutes are not presumed to make any alteration in the common law further or otherwise than the Act does expressly declare. Therefore, in all general matters, the law presumes the Act did not intend to make any alteration; for if the Parliament had had that design, they would have expressed it in the Act.

This case was cited to the Court of Appeal, and appears to be very much in point. We gather also that stress was laid on the provision of the Act of 1915 guaranteeing the right of trial by jury, a point which was noticed by "Legalist" in a very temperate and well-reasoned letter to the *Nation* of 29th January. SWINFEN EADY, L.J., appears to have said that there was nothing in the point. This may be a correct view for a judge who is only concerned with the strict words of a statute, and has no regard to the constitutional guarantees which have been devised for the protection of personal liberty. But we imagine that the lawyer of the future will say that the Court stuck to the letter, and neglected both the constitutional law by which the construction of the statutes should be governed, and such indications of an intention to adhere to that law as the statutes afforded. If a British subject is to be flung into prison at the bidding of the "competent naval or military authority," why this care of Parliament—even if it is only an afterthought—that he shall have a civil trial for any offence

against the Regulations? It required only such a broad reading of the statutes, as we imagine many judges—of an earlier day, if not of the present—would have adopted, to preserve the liberty of the subject unimpaired in this time of stress; a liberty, of course, not absolute, but the right to freedom until an offence has been proved by regular trial.

We have neither space nor desire to discuss here the writ of *habeas corpus*, and the protection it affords to the subject whether at common law or under the Habeas Corpus Acts—one of the chief expositions of it is to be found in Lord ELDON's judgment in *Crowley's case* (2 Swan. 1)—but we may refer to the words of BURKE on an occasion when there was a proposal for a similar suspension of the Acts with regard only to certain classes of persons:—

I confess that this appears to me as bad in the principle, and far worse in its consequence, than an universal suspension of the Habeas Corpus Act. . . . Liberty, if I understand it at all, is a general principle, and the clear right of all the subjects within the realm or none. Partial freedom seems to me a most invidious mode of slavery. . . . People without much difficulty admit the entrance of that injustice of which they are not to be the immediate victims. . . . Indeed, nothing is security to any individual but the common interest of all. (Letter to the Sheriffs of Bristol on the Affairs of America, 1777.)

These words of one of the greatest Englishmen of the eighteenth century—one of the three greatest we might, perhaps, say—were written of civil strife, but they apply equally to all times of national crisis. In the future it will be possible to view in better perspective the relative claims of individual liberty and belligerent exigencies; but we regret that the Court of Appeal did not arrive at a different result.

## Wages of Interned Seamen.

THE House of Lords has just overruled (*ante*, p. 234), by a majority of four to one, the majority decision of the Court of Appeal (59 SOLICITORS' JOURNAL, 716; 1915, 3 K. B. 203), which affirmed that of ROWLATT, J., in *Horlock v. Beal*. BEAL, whose wife was the plaintiff, signed articles as second mate on board *The Coralie Horlock* on 21st May, 1914, and provision was made, in accordance with the Merchant Shipping Acts of 1894 and 1906, for an allotment note of part of his wages to his wife. When war broke out the ship had reached Hamburg, and there she was detained, and her crew interned by the German authorities on 2nd November—the date is important. His wife sued the owner of the ship for payment under the allotment note, but the shipowners contended that the liability to pay wages terminated on 4th August, when the ship was seized and detained. ROWLATT, J., took the view that the contract for service between BEAL and the owners was quite unaffected by the detention of the ship or by the subsequent internment, and that until BEAL was lawfully discharged his right to receive wages continued.

Obviously the question at issue is the effect on the contracts between seamen and owners of (1) the seizure of the ship, and (2) the internment of her crew. Now the Merchant Shipping Act of 1894 does not give much assistance in deciding this point, for, although section 158 provides for termination of contracts on the "wreck" or "loss" of a ship, the better view on the *ejusdem generis* principle of interpretation clearly is that "loss" includes only a "physical" loss of the ship—including, of course, a "constructive total loss" as that expression is understood by underwriters. Nor has Admiralty law any practical rule on the point, so we are thrown back on the common law rules which govern the operation of a contract.

The appropriate rule is that a continuing contract is automatically terminated by any unforeseen event which, without fault of either party, renders impossible the further performance of the contract. But it is not by any means clear that the detention of the ship is such an event. For by the principles of International Law an enemy ship within a belligerent port when war breaks out ought to be released when war is

over, so that presumably the contemplated voyage is only suspended, not terminated. But the House of Lords evidently felt that this view was too optimistic, and that common sense compelled them to treat the voyage as terminated, and the liability to pay wages as at an end. Lord PARMOOR alone dissented from this view, but he based his opinion on an old decision (*Beale v. Thompson*, 4 East, 456), which, though perhaps binding on ROWLATT, J., was not binding on the House of Lords. The other four law lords, however, were by no means at one in their views as to the date of the termination of the contract. Lord LOREBURN thought that the contract of service did not fail until the internment of the crew on 2nd November, so that wages accruing from 4th August to 2nd November could be recovered. But Lords ATKINSON, SHAW, and WRENBURY considered that the adventure ceased on the forcible detention of the ship in August, and that on that date all contracts incidental to the free navigation of the vessel became impossible of performance.

Curiously enough a practical question of great importance to the public caused tempting speculation to the law lords in delivering their judgments in *Horlock v. Beal* (*supra*). When a war breaks out, is a court entitled to consider the question of its probable duration, and to draw inferences of fact from the probabilities of the case as to how long the war will last? There are conceivably contracts in construing the terms of which this point might be relevant; indeed, Lord LOREBURN thought it relevant in *Horlock v. Beal*. For in that case the seaman's contract, which formed the *res litigiosa*, was one for two years, commencing in May of 1914, so that if the war was likely to last long, it could obviously never become capable of resumed performance within its agreed term. But it appears to be settled by *Geipel v. Smith* (L. R. 7 Q. B. 404), that speculation of this kind is not permissible to a judge. "A state of war," it was said in that case, "must be presumed to be likely to continue so long, and so to disturb the commerce of merchants, as to defeat and destroy the object of a commercial adventure." Unfortunately, experience confirms this judicial view. At any rate, the decision of three law lords out of five in *Horlock v. Beal* is apparently an authoritative pronouncement that no speculation as to the presumable length of a pending war is open to courts which construe during the war any pre-war contract as to which such duration is material.

## Reviews.

### Books of the Week.

**Military Law.**—The Young Officers' Guide to Military Law. By F. J. O. CADDINGTON, M.A., LL.M., Barrister-at-Law. Gale & Polden (Limited). 2s. 6d. net.

**Income Tax.**—The Finance Acts of 1915: An Annotated Reprint of the Income Tax Provisions of the New Acts. By the Income Tax Expert of "The Accountant." Gee & Co. (Limited). 2s. net.

**Excess Profits Duty.**—War Profits: The New Excess Profits Duty simply explained. By WM. SANDERS, of the Department of Commissioners of Taxes, Lichfield. Gee & Co. (Limited). 1s. 6d. net; cloth, 2s. net.

**The British Dominions Year Book, 1916.** Edited by EDWARD SALMON, F.R.C.L., and JAMES WORSFOLD, F.C.I.S. The British Dominions General Insurance Co. (Limited).

**International Law Notes, February, 1916.** Stevens & Sons, Ltd. Sweet & Maxwell, Ltd. 9d.

\* A Reuter's message from Washington of 4th February says:—Mr. Lansing, Secretary of State, has indicated that the United States Government has decided in favour of the German contention that the Prussian-American Treaty governs the case of *The Appam*, but the interpretation and the application of the terms of the treaty remain to be decided. A further message of 8th February says:—Count Bernstorff has presented to Mr. Lansing a formal request from Germany, under the Prussian-American Treaty of 1828, to allow *The Appam* to remain in American waters indefinitely.

## Correspondence.

## Settled Legacies and Shares of Residue and Estate Duties.

[To the Editor of the Solicitors' Journal and Weekly Reporter.]

Sir,—Among the problems which the construction of wills and administration present, many difficulties would appear to be the natural sequence of the changes which the Legislature chooses from time to time to make by multiplying or varying the occasions upon which claims for duties arise, and the nature and incidence of such duties, and the failure on the part of draughtsmen to adapt old forms to new conditions.

For instance, let us take the not uncommon case where a testator has given his real and personal estate upon trust for conversion, and after directing payment out of the proceeds of realisation of debts, legacies, annuities, &c., and payment of all death duties payable in respect of his estate or any part thereof, has left the residue in trust for, say, four persons in equal shares, two of such shares being settled.

Apparently, before the Finance Act, 1914, came into operation the estate duty, duty on legacies, etc., and also settlement estate duty upon the settled shares (*Re Leveridge*, 85 L. T., p. 458) would have been paid out of the proceeds of conversion, and the residue would then be clear of duty.

Now, however, further estate duties will become payable on the death of each life tenant, the amount of which may depend upon questions of aggregation, and cannot be ascertained until the various events happen. In such circumstances, what construction is to be put upon the testator's direction for the payment of all death duties out of his estate?

Are the words to be deemed to mean, all death duties payable in respect of my estate or any part thereof "on the occasion of my death." Such a construction would seem to be a reasonable one, but it would necessitate reading into the will words which are not expressed there, but which might very suitably be adopted in cases similar to the above. The unsettled shares could then be wholly dealt with and distributed, while any presumptive duties in respect of settled shares would be payable out of the funds representing such shares.

The authorities on the matter, however, appear to favour the former construction. In *Re Pimm* (1904, 2 Ch., p. 345) Farwell, J., in giving judgment in respect of a direction by a testator for payment out of his residuary estate of all "my duties," said "I think it is a compendious way of expressing what he had in his mind, and that he meant to say, all duties to which my estate is liable by reason of any dispositions I have made in my will. The duties are payable to the Revenue, but they arise under the provisions of the testator's will, and in this sense are the testator's duties."

Again, in *Re Cayley* (1904, 2 Ch., p. 781), where a testator referred to "the death duties payable out of my estate," the expression was held to extend to all death duties, and Swinfen Eady, J., said he saw "no reason to restrict the meaning."

On the other hand, it may be argued that residue can be given free of duty (Hanson on Death Duties, 6th ed., p. 516, citing *Lord Lonsborough v. Somerville*, 19 Beav. 295, and *Re Dalrymple*, 49 W. R. 627), and that the cases of *Re Pimm* and *Re Cayley* had reference to the payment out of residue or some other specific fund of the duties on properties specifically disposed of.

The case of *Lord Lonsborough v. Somerville*, however, does not seem to decide more than that in special circumstances the legacy duty on "the income of residuary personal estate uninvested" is not payable out of general personal estate.

The questions as to whether such income should be regarded as one of the pecuniary legacies which the testator had in mind was obviously doubtful, and apart from that, it is submitted that a full reading of the case does not support the view that residuary estate cannot be disposed of in such a manner that all duties whatever are first to be paid out of it. The case of *Re Dalrymple* comes nearer the point in question. There, after giving certain legacies to males and females, the testator declared that all legacies, devises, bequests, therebefore or thereafter given or made in favour of females, should be free of legacy duty, and the residue was given to three males and three females as tenants in common.

In that case, Kekewich, J., with great hesitation, and contrary to the express wording of the will, arrived at the conclusion that the females' shares of the residue ought to bear their own legacy duty. Apparently he felt driven to this result by the reason that to have held otherwise would have been to make the males' shares bear the duties upon the females' shares, and the residue would then have been divided unequally.

Such a question would not seem to arise in the hypothetical case above mentioned, as the testator's intention would appear to be, that out of the proceeds of realization all duties are to be paid before making a division of the ultimate residue equally between the

residuary legatees. It would be interesting to hear whether any of your readers have had occasion to consider such a case, and if so, what conclusion was arrived at as to the proper method of administering the estate, and how the direction as to payment of duties was dealt with.

Feb. 7.

[Our correspondent's suggestion seems to be the same as that made by another correspondent, "W. H. W." (59 SOLICITORS' JOURNAL, 560), on which we commented, *ibid.*, p. 558. However quickly changes may be made in precedents for future use, these will not avoid the trouble arising under existing instruments, and the matter seems to be one which should be dealt with by legislation.—Ed. S.J.]

CASES OF THE WEEK.  
House of Lords.

THE "SERBINO," OWNERS OF *v.* PROCTOR. 31st January.

WORKMEN'S COMPENSATION—DISAPPEARANCE OF SEAMAN AT SEA—CHIEF ENGINEER FALLS OVERBOARD—EVIDENCE THAT HE WORRIED ABOUT DEFECTS IN PROPELLER—NO DIRECT EVIDENCE OF DEATH—PRESUMPTION FROM CIRCUMSTANTIAL EVIDENCE—ACCIDENT ARISING OUT OF EMPLOYMENT—WORKMEN'S COMPENSATION ACT, 1906 (6 ED. 7, C. 56), s. 1 (1).

The chief officer of a steamship disappeared at sea. No one saw him fall overboard or in a place where there was a danger of so falling, but it was proved that he was anxious about the behaviour of the propeller, and had given orders to be called, and had arisen earlier than usual, presumably to endeavour to observe it, and that he could do so, but at some personal risk, by getting over the stern rail.

Held, that there was evidence to support the finding of the county court judge that the accident arose "out of" the employment.

Decision of Court of Appeal (59 SOLICITORS' JOURNAL, 629; 1915, 3 K. B. 344) affirmed.

Employers' appeal from an order of the Court of Appeal, which affirmed a decision of the learned county court judge at Hull in favour of the applicants. The applicants were the dependents of the chief engineer of the ss. *Serbino*, who was missing on 16th June, 1913, from the vessel while she was at sea on a voyage from Petrograd to Hull. The vessel was a new one, and Proctor, as the engineer, was dissatisfied with, and anxious about, the propeller, which he believed had got damaged in harbour. He spoke about this often, and there was evidence that when he turned in for the night on the evening of 15th June Proctor told the steward to call him at 5.40 a.m., which was two hours earlier than usual. On being called he got up, dressed, and went on deck; he was seen walking aft. After that nothing more was seen of him, but there was no doubt that he either jumped or fell overboard. There was some trouble also about the refrigerator, and all these things seemed to have weighed upon the deceased's mind unduly. On the morning of the 16th the vessel was nearing Hull when the accident happened. For the applicants it was suggested that the deceased had got up earlier than usual in order to examine the propeller, which he could see if he got over the stern rail. That would expose him to considerable risk. An inference from the facts that were known was therefore to be drawn that the accident "arose out of and in the course of his employment." The respondents submitted that the accident was just as probably due to suicide, and that, there being no evidence as to the way the deceased met his death, the Court could not in such circumstances act on mere "surmise, conjecture, or guess." The county court judge found that the death of the deceased was due to an "accident arising out of and in the course of" his employment, and awarded the applicants £300. The Court of Appeal affirmed his judgment. Their lordships, without calling on the respondents, dismissed the appeal.

Lord BUCKMASTER, C., said he was satisfied that there was no reason to disturb the decision at which the Court of Appeal had arrived. It was a question of fact.

Lords ATKINSON, PARKER, SUMNER, and PARMOOR concurred, and the appeal was accordingly dismissed with costs.—COUNSEL for the appellants, Neilson and W. H. Owen; for the respondents, Gordon Hewart, K.C., and Gilbert Stone. SOLICITORS, Botterell & Roche, for J. & T. W. Hearfield & Lambert, Hull; C. J. Smith & Hudson, for Locking, Holdich, & Locking, Hull.

[Reported by ERSKINE REID, Barrister-at-Law.]

LONDON ASSOCIATION FOR THE PROTECTION OF TRADE AND J. H. HADWEN *v.* GREENLANDS (LIM.). 21st, 22nd, 25th, 26th, and 29th October; 23rd November; 7th December; and 31st January.

LABEL—TRADE PROTECTION—MUTUAL SOCIETY—COMMUNICATION MADE BONA FIDE TO ONE OF ITS MEMBERS—INFORMATION GIVEN SOCIETY BY LOCAL AGENT MALICIOUSLY INACCURATE—SECRETARY ACTING AS CONFIDENTIAL AGENT OF MEMBER—ACTION BASED ON PUBLICATION BY SOCIETY—PRIVILEGED OCCASION.

A subscriber to a society for supplying information as to the credit of persons with whom members intended to deal applied for information as to the respondents' credit. Hadwen, who was the secretary of

the society, wrote to Wilmshurst, their local agent, who was in the habit of giving the society information, and the information he supplied was inaccurate. This information was handed on in good faith by Hadwen to the inquirer. The respondents sued the society, Hadwen, and Wilmshurst jointly for libel, and obtained a verdict and judgment against Wilmshurst, who was found guilty of malice, for £750, and against Hadwen and the society, against whom malice was not proved, for £1,000. The two latter alone appealed to the Court of Appeal, asking for judgment or a new trial. The Court, by a majority (Bray, J., dissenting), held that the report was not published on a privileged occasion; but granted a new trial on the ground that the damages were excessive. On appeal to this House the appellants asked for judgment on the ground that the libel was published on a privileged occasion. At the Bar of the House the respondents consented to the judgment being set aside as against the society by reason of its being an unincorporated association, in order to facilitate the determination of the question of privilege.

Held, that Hadwen, in making the inquiry and report, had acted as the confidential agent of the inquirer, and the occasion was therefore privileged.

Decision of Court of Appeal (1913, 3 K. B. 507) reversed, and order for a new trial set aside.

Decision in *Macintosh v. Dun* (1909, A. C. 360) distinguished.

Appeal from an order of the Court of Appeal directing a new trial in an action by the present respondents against the present appellants and one Wilmshurst to recover damages for libel. The plaintiffs, Messrs. Greenlands (Limited), were drapers and house furnishers at Hereford. The defendant association was an unincorporated body, formed in 1842 for the purpose (*inter alia*) of supplying information to its subscribers as to the commercial standing and credit of intending customers, and consisted of such persons as might desire to become members. Such persons paid an annual subscription, which entitled them to a certain number of inquiries free, and to a further number for an additional payment. Mr. Shand Kydd, a London paper manufacturer, who was a member of the association, applied for information as to the credit of Messrs. Greenlands. The secretary of the association, Mr. Hadwen, thereupon wrote to Wilmshurst, the local agent of the society at Hereford, who made a report to him, admittedly inaccurate, as to the financial position of the plaintiffs (which, in fact, was exceptionally strong), adding that for the small amount of credit proposed to be given by Mr. Shand Kydd it was "a fair trade risk." The plaintiffs sued jointly the society, its secretary, Hadwen, and Wilmshurst. The three defendants put in a joint defence. The case was tried before Lord Alverstone, C.J., and a special jury, and a verdict returned against the society and Hadwen, who, they found, had acted without malice, for £1,000, and against Wilmshurst for £750, who, they found, had acted with malice. The society and its secretary, Hadwen, alone appealed, and the Court ordered a new trial. They intimated that where there was a single cause of action against several defendants arising from a joint tort, and the defendants severed their defences, a jury had no power to sever the damages, and judgment ought not to have been entered against the several defendants for different amounts. Against the order for a new trial Hadwen appealed, it being agreed that the society, not being incorporated, could not properly be sued. On the hearing of the appeal in this House, Hadwen, who was then the sole appellant, asked for judgment on the ground that as he made the communication to Mr. Shand Kydd in a position analogous to that of a confidential agent to his principal it was privileged, and that the jury having found that it was made *bona fide*, though inaccurate in fact, he was entitled to succeed. Alternatively that, as Wilmshurst had not appealed from the verdict and judgment of £750 entered against him at all, so long as that judgment against him stood it was incompetent for any Court to order a new trial, as the judgment afforded a complete answer to the rehearing of the action, which was based on a joint tort. On this point being argued, Wilmshurst was ordered to attend, and the hearing was adjourned for his attendance. Wilmshurst attended, and a suggestion was then made by the Lord Chancellor, who explained the position to him, that he should consent to an order the effect of which would be to relieve the House of the difficulty which had thus arisen in the event of the order for a new trial being affirmed. THE HOUSE then reserved judgment.

LORD BUCKMASTER, C., in moving that the appeal should be allowed and judgment entered for Hadwen, said that if Mr. Shand Kydd had appointed a proper agent to make the inquiry on his behalf as to the financial position of Messrs. Greenlands, the answer of such agent, in the absence of malice, would have been privileged. The fact that he had made the inquiry through the means afforded by his membership of a large group of traders, who had associated themselves together for the purpose of providing an agent through whom such inquiries were to be made, could not of itself take away the privilege which would have existed if the association had never intervened.

EARL LOREBURN agreed in the appeal being allowed, because he thought that, on the finding of the jury that Hadwen had acted without malice, in the circumstances he was entitled to judgment. He doubted if the occasion was privileged if Hadwen was to be regarded as the agent of the association as a whole, inasmuch as their methods were not salutary, and did not deserve protection. But if Hadwen was to be regarded as the confidential agent of Mr. Shand Kydd alone, the occasion was privileged. He expressed his strong feeling that Messrs. Greenlands had been cruelly defamed, and that they might have lost a remedy to which they were entitled by a miscarriage at the hearing

more difficult to repair than any he had met with in his former experience. He believed they had acted wisely, and though the result of the litigation was adverse to them, they had, at least, the satisfaction of amply vindicating their good fame, which had been so unjustly assailed.

LORD ATKINSON and LORD PARKER agreed that the association could not be sued, and on the question of privilege held the same opinion as the Lord Chancellor. Order for new trial set aside, and judgment entered for appellant, Hadwen, with costs, there and below.—COUNSEL, for the appellant, Sir Robert Finlay, K.C., Leslie Scott, K.C., and Heber Hart, K.C.; for the respondents, Dickens, K.C., Clavell Salter, K.C., and Hugh Fraser. SOLICITORS, Hutchison & Cuff; Ford, Lloyd, & Co., for Houchen, Greenland, & Co., Attleborough.

[Reported by ERSKINE REID, Barrister-at-Law.]

## High Court—Chancery Division.

*Re* LAMBERT. PUBLIC TRUSTEE *v.* LAMBERT. Eve, J.

12th January.

INSURANCE—ACCIDENT—WIFE TO BE ENTITLED TO BENEFITS—BEQUEST OF RESIDUE TO WIFE FOR LIFE—CLAIM BY WIDOW TO BE ENTITLED ABSOLUTELY.

A testator insured his life for £1,000, and by his will gave the residue of his property to his wife for life, with a gift over on her death. One of the terms of the contract was that the wife of the insured person should be entitled to the benefits of the insurance. The widow claimed to be entitled to the £1,000 absolutely.

Held, that the £1,000 formed part of the residuary estate of the testator, and passed to the plaintiff as his sole executor.

This was an adjourned summons asking whether the defendant was entitled to a sum of £1,000 absolutely or for life only. In January, 1915, the testator was killed in a railway accident. At the date of his death he was the holder of the *Daily Mail's* order form insurance, under which an insurance company offered to pay (1) £1,000 to the legal personal representative of the holder of this insurance coupon if the holder should be killed by railway accident; (2) £500 to the holder should the accident cause loss of limb or sight; (3) £2 per week for total incapacity and (4) £3 per week for inability of the holder to follow his vocation. The above offer was subject to (*inter alia*) the following condition: (h) that the husband or wife of a subscriber to the newspaper should be entitled to the benefits numbered 1, 2, 3 and 4, but not to certain other specified benefits. By his will the testator appointed the Public Trustee sole executor and trustee, and gave the residue of his property upon trust to pay the income to his wife (the defendant) for life, and after her death for his issue, and in the event (which happened) of no issue taking vested interests, upon trust for his next-of-kin. The insurance company paid the £1,000 to the executor. The defendant claimed to be entitled to the £1,000 absolutely, and the executor took out this summons to have it determined whether she was so entitled.

EVE, J. (after saying that the destination of the fund must be ascertained by the Court on the proper construction to be placed upon the contract contained in the offer, continued): According to the construction for which counsel on behalf of the widow has contended, on the happening of any of the events referred to in paragraphs 1, 2, 3, and 4 of the offer, the wife or husband of the subscriber, and not the subscriber himself, would be entitled to receive and retain for her or his own benefit the sums respectively mentioned therein, although the painful and disfiguring injury and the suffering consequent thereon had to be borne by the subscriber. On this construction there seems to be little or no reason for excluding from the operation of clause (h) the benefits payable under paragraphs 5 and 6. The distinction between the case of the widow of the man who met his death in a train accident, and the widow of the man who was killed in a trap accident, would seem on such construction to be capricious. But the question is, Has clause (h) anything to do with the destination of the money when the accident has happened? Does it not relate solely to the period of time antecedent to any accident? In my opinion it does not affect the money after the accident has occurred. It secures to the husband or wife of the subscriber, by means of the premiums paid by the subscriber, the same benefits as are secured under paragraphs 1, 2, 3 and 4, but not those under paragraphs 5 and 6. When an accident has happened the money under paragraphs 1, 2, 3 and 4 are payable to the person who has sustained the accident, whether subscriber or wife or husband of a subscriber. Similarly, if the accident be a fatal one the moneys payable under paragraph 1 are payable to the legal personal representative of the fatally injured person, and to no one else. Accordingly I hold that the £1,000 formed part of the residuary estate of the testator, and passed to the plaintiff as his sole executor.—COUNSEL, *Henriques*; *Givcen*. SOLICITOR, *Arthur S. Joseph*.

[Reported by S. E. WILLIAMS, Barrister-at-Law.]

The list of aliens to whom certificates of naturalization have been granted by the Home Secretary during the month of January comprised 142 cases, made up as follows:—Five Americans, six Austrians, four Danish, eleven Dutch, four French, fifty-six Germans, four Italians, twenty-five Russians, three Swedish, eleven Swiss, and thirteen of other nationalities. All the Germans are British-born widows, as are also three of the six Austrians.

## CASES OF LAST SITTINGS

### Court of Appeal.

**PRICE v. GLYNEA AND CASTLE COAL AND BRICK CO. (LIM.).**

No. 1. 17th and 20th December.

WORKMEN'S COMPENSATION—ACTION FOR DAMAGES FOR LOSS OF HUSBAND—DAMAGES AWARDED LESS THAN COMPENSATION RECOVERABLE UNDER WORKMEN'S COMPENSATION ACT—ADEQUACY—NO MISDIRECTION—WORKMEN'S COMPENSATION ACT, 1906 (6 ED. 7, c. 58), s. 1 (4)—FATAL ACCIDENTS ACT, 1846 (9 & 10 VICT. c. 93), s. 2.

In an action for damages for negligence on the part of a colliery company, causing the death of a collier, the jury awarded the plaintiff, his widow, £225 for herself and her daughter. If she had made a claim for compensation under the Workmen's Compensation Act she would, on the basis of average weekly wages, have been entitled to receive £300, but no more.

Held, there was no misdirection in the judge not having stated this to the jury or referred to the Act, and to have done so might have tended to limit the damages actually given.

Held, also, that the damages were not inadequate.

Appeal by the plaintiff from verdict and judgment in a trial before Atkin, J., and a jury at the Glamorgan Assizes, asking for a new trial, on the ground of misdirection, and also on the ground that the damages awarded were inadequate. In October, 1913, a severe explosion took place in the defendants' colliery, causing the death of eight of their workmen. Actions were brought against the defendants claiming damages under the Fatal Accidents Act, 1846 (commonly known as Lord Campbell's Act). One of these was taken as a test action to determine the question of liability for negligence, and the jury found that the cause of the explosion was defective ventilation, due to the defendants' negligence, and assessed the damages. The remaining actions then went to trial solely for assessment of damages. The present was the only case in which the damages awarded were less than £300. The plaintiff was the widow of a collier, whose average weekly wages before the accident amounted to £2 6s. 9d., and the only other dependant was her daughter, twenty-eight years of age, who lived with her. The expectation of life of the deceased workman was about sixteen years. It was admitted that if the claim had been made under the Workmen's Compensation Act, the widow would have been entitled to £300. The jury awarded £225 damages, £200 being apportioned to the plaintiff and £25 to her daughter. The plaintiff appealed.

THE COURT dismissed the appeal.

SWINFEN EADY, L.J., having stated the facts, proceeded: The first ground of appeal was that of misdirection. It was said that the judge ought to have referred to the provisions of the Workmen's Compensation Act, and to have pointed out that under that Act the compensation payable would not have been less than £300. If the plaintiff had failed to prove negligence, she would still have been entitled to obtain £300 under the Workmen's Compensation Act, and therefore it was said it could not be right for less damages than £300 to be awarded. One could not help observing that, when proceedings were taken under Lord Campbell's Act, the object usually was to be free from the limit imposed by the Workmen's Compensation Act and to obtain a larger sum. In his lordship's opinion, not only was there no misdirection in the judge not having referred to the latter Act, but it would have been a misdirection for him to have done so, and the plaintiff might in that case have justly complained that to do so would tend unfairly to diminish the amount she might otherwise have been awarded. Under Lord Campbell's Act, too, it was unnecessary to prove that the accident arose out of and in the course of the employment. Then it was said that the damages awarded were wholly inadequate, and that the actual pecuniary loss to the family over the probable duration of the man's life ought to have been considered, and the plaintiff ought to have got about £780; and in support of that *Phillips v. L. and S.W. Railway* (5 Q. B. D. 78) had been relied on. His lordship was quite unable to agree that the damages were in any sense inadequate, and it could not be said that the jury had failed to take into account any vital element in the case. It might be true that the plaintiff would have got £300 under the Workmen's Compensation Act, but the action was not brought under that Act. There was no ground for a new trial, and the appeal would be dismissed.

BANKES, L.J., who observed that, where a claim was made under Lord Campbell's Act, there was not only the question of the deceased's expectation of life, but also of the claimant's, to be taken into account; and

WARRINGTON, L.J., delivered judgment to the same effect.—COUNSEL, *Ellis Griffiths, K.C., Compton, K.C., and A. T. James; A. Parsons, K.C., and Clive Lawrence.* SOLICITORS, *Smith, Rundell, & Dods, for Morgan, Bruce, & Nicholls, Pontypriid; Pritchard, Englefield, & Co., for Francis & Cooke, Cardiff.*

[Reported by H. LAWRENCE LEWIS, Barrister-at-Law.]

## High Court—Chancery Division.

**NATIONAL PROVINCIAL BANK OF ENGLAND v. THE UNITED**

**ELECTRIC THEATRES.** Astbury, J. 1st and 2nd December.

RATES—POOR RATE—MORTGAGE OF PREMISES AND FIXTURES AND MOVABLES THEN OR THEREAFTER ON THE PREMISES—POOR RATE ASSESSMENT AND COLLECTION ACT, 1869 (32 & 33 VICT. c. 41), s. 16—PUBLIC HEALTH ACT, 1875 (38 & 39 VICT. c. 55), s. 211, SUB-SECTION 3—COMPANIES (CONSOLIDATION) ACT, 1908 (8 ED. 7, c. 69), s. 107.

A mortgage was by conveyance of premises and assignment of the fixtures and movables then or thereafter to be placed on the premises, and of the goodwill of the business carried on there. A receiver had been appointed in a foreclosure action, and the tenants ordered to attorn to him.

Held, that there had not been a change of possession within section 16 of the Poor Rate Assessment and Collection Act, 1869, and section 211 of the Public Health Act.

Re Marriage, Neave, & Co. (1896, 2 Ch. 663) applied.

Held, further, that such a mortgage was a floating charge, bringing the case within *Tailby v. The Official Receiver* (13 A. C. 523).

This was a summons in a foreclosure action. By a mortgage of 11th August, 1914, the defendants covenanted that they would, on demand, pay the plaintiffs all moneys then or from time to time owing by the defendants to the plaintiffs on banking account. For further securing the payment of these moneys the defendants conveyed to the plaintiffs all and singular the hereditaments and premises described in the schedule, "together with all and singular the fixed and movable plant and fixtures, implements and utensils now or hereafter fixed or placed upon or used in or about the said hereditaments and premises respectively," to hold the same unto and to the use of the plaintiffs in fee simple. And by the same indenture the defendants also assigned to the plaintiffs, first, all the goodwill of the business of proprietors of electric or cinematograph theatres, and of every other business (if any) then or at any time during the continuance of the security carried on at or upon the said hereditaments and premises respectively, and the benefit of existing and future licences therefor; secondly, "All and singular the furniture and loose effects which now are, or may from time to time be, placed upon or used in or about the hereditaments and premises"; to hold the same unto the plaintiffs absolutely, subject, nevertheless, as to all the hereditaments and premises thereinbefore conveyed and assigned to the proviso for redemption therein contained. The defendants covenanted to keep the buildings repaired and insured against fire, to renew licences, to use the premises for the purpose of the businesses, to conduct them in a regular and proper manner, and not to permit the premises to be used otherwise than as first-class electric or cinematograph, or variety, dramatic or other theatres, or other places of amusement, and not to let them without the plaintiffs' written consent. The schedule contained six plots of land, on three of which electric theatres were built, one being the Picture Palace, Walsall. On 26th April, 1915, a demand for poor rate, general district rate, and borough rate on the picture palace for the six months ending 30th September, 1915, was served on the defendants, but these rates were not paid. On 1st July, 1915, the plaintiffs issued a foreclosure summons, and on 2nd July, 1915, the Court appointed Chantrey to receive the rents and profits of the properties and assets comprised in and subject to the mortgage, and to manage the respective businesses carried on by the defendants at or upon the said properties, and the tenants of the said properties were to attorn and pay the rents to Chantrey as such receiver. And it was ordered that the defendants should deliver over to Chantrey as such receiver and manager "all the stock-in-trade and effects of the said businesses." In pursuance of this order, Chantrey took possession of the picture palace as receiver and manager on 5th July, 1915. On 21st August, 1915, the rates were demanded from the receiver. The receiver thereupon offered to pay the proportion of the rates from the date of his appointment; but this offer was not accepted, and on 20th September a judgment for payment and for distress in default was obtained from the borough court of summary jurisdiction.

ASTBURY, J., after stating the facts, said: There has been no such change of possession as was contemplated by the Rating Acts, as no order was made for delivery up of the possession of the premises as distinct from stock-in-trade and books necessary to enable the receiver to carry out the part of the order dealing with management. I think the decision of *Re Marriage, Neave, & Co.* (1896, 2 Ch. 663) substantially applies to this case. Further, I think that this is a floating charge rather than a specific mortgage, being a charge on what, in the ordinary course of business, would be subject to change from time to time, and therefore comes within the decision of *Tailby v. The Official Receiver* (1888, 13 A. C. 523) and *Illingworth v. Houldsworth* (1904, A. C. 355).—COUNSEL, *The Hon. Frank Russell, K.C., and Arthur Sims; J. W. Manning.* SOLICITORS, *J. B. & G. S. Bernstein; Ward, Bowie, Porter, & Co., for Herbert Lea, Walsall.*

[Reported by L. M. MAY, Barrister-at-Law.]

**Re CRAWSHAY. CRAWSHAY v. CRAWSHAY AND OTHERS.**

Peterson, J. 3rd and 7th December.

**WILL—ANNUITY—"CLEAR OF ALL DEDUCTIONS, INCLUDING INCOME TAX"—SUPER-TAX.**

*Super-tax on income arising under a will is not a charge in respect of any particular annuity or sum bequeathed by the testator, but is a charge in respect of the recipient's whole income, and is not a matter with which the trustees would be charged or concerned at all.*

*An annuity given "free of all deductions" does not free the annuitant from liability to pay income tax.*

*See Gleason v. Leatham (1882, 22 Ch. D. 269) and Re Buckley (1894, 1 Ch. 286).*

*Where an annuity is given "clear of all deductions, including income tax," the annuitant must herself pay super-tax.*

This was an adjourned summons asking, *inter alia*, whether, having regard to the terms of the first and second codicils, the trustees of the testator's will should pay out of the income of his residuary estate any and what part of the super-tax payable by the testator's widow in respect of the income received by her from all sources. The facts were as follows:—By a deed poll, which was dated 16th April, 1880, the testator had appointed that out of the income of a certain trust fund the sum of £1,500, "free of all deductions, except income tax," yearly and every year from the day of his death, should be paid to his wife during the remainder of her life. The testator made his will on 24th October, 1900, and by a codicil of the same date bequeathed to his wife during her widowhood such a sum as together with the income for the time being received by her under the said appointment would make up an annual sum of £2,000 "clear of all deductions, including income tax," to be paid quarterly. On 11th April, 1901, he made a second codicil, whereby he declared that the annual sum of £2,000 directed by the first codicil to be made up and paid to his said wife should be increased to the annual sum of £2,500 "clear of all deductions, including income tax," to be paid quarterly. Since the death of the testator in October, 1903, the annuity of £1,500 less income tax had been duly received by the testator's widow, and the trustees of the testator's will had paid to her such a sum as, with the sum so received by her, made up the full annual sum of £2,500 clear of all deductions, including income tax. The widow's income was now of such an amount that she was liable to pay super-tax under section 3 (1) of the Finance Act, 1914 (4 & 5 Geo. 5, c. 10), as amending section 66 of the Finance (1909-10) Act, 1910 (10 Ed. 7, c. 8).

PETERSON, J., after stating the facts said: It is clear from the decisions of *Gleason v. Leatham* (1882, 22 Ch. D. 269) and *Re Buckley* (1894, 1 Ch. 286) that the gift of an annuity "free of all deductions" would not free the annuitant from liability to pay income tax, and that unless income tax were expressly included in the term "deductions," the annuitant would have to pay it. Trustees who have to pay an annuity are accountable for the income tax, and in the ordinary course would, for the purpose of meeting their accountability, deduct the income tax before payment, and only hand over the balance to the annuitant. In the present case I think the testator treated income tax as a deduction, and by the direction in the codicil meant to say: "I direct that nothing shall be deducted from the sum given, not even income tax." In my judgment, what the testator was considering when he gave the sums in question was the income tax for which the respective trustees would be accountable in respect of the particular annuity or sum. Now super-tax is not a charge in respect of any particular annuity or sum, but is a charge in respect of the recipient's whole income, and is not a matter with which the trustees would be charged or concerned at all, and in my opinion what the testator has done is to give the widow the yearly sum of £2,500 clear of all deductions, for which the trustees are accountable, but that does not include super-tax, which she must pay herself.—COUNSEL, J. M. Stone; J. J. Wood; J. W. Manning; A. M. Begg. SOLICITOR, Wellington Taylor.

[Reported by L. M. May, Barrister-at-Law.]

**Solicitors' Cases.****Solicitors Ordered to be Struck Off the Roll.**

January 19.—SAMUEL DINSDALE BALDEN.

January 19.—SEYMOUR ADOLPHUS BLIGHT, Bank Chambers, Devonport.

January 19.—WILLIAM BAGOT HART.

January 19.—ERNEST ST. GEORGE CAUSTON.

January 19.—JAMES TRIFFETT SOUTHCOTE.

**Solicitors Ordered to be Suspended.**

January 19.—ROBERT BERTRAM JONES, Liverpool and Woolton, Lincs. Ordered to be suspended for twelve calendar months.

January 19.—EDWIN MONTAGUE ARMSTRONG, 119, Victoria-street, Westminster, S.W. Ordered to be suspended for five years.

**New Orders, &c.****War Orders and Proclamations, &c.**The *London Gazette* of 4th February contains the following:—

1. The Proclamation, dated 3rd February, fixing 10th February as the date on which the Military Service Act, 1916, will come into operation. This we printed last week (*ante*, p. 257).

2. An Order in Council, dated 3rd February (printed below), further amending the Defence of the Realm (Consolidation) Regulations.

3. An Order in Council, dated 27th January (printed below), prescribing the duties of the Chief and Deputy Chief of the Imperial General Staff.

4. An Order of the Secretary of State, dated February 1st, 1916, under Article 18 (2) of the Aliens Restriction (Consolidation) Order, varying the list of prohibited areas. This is too long for us to print. The list of prohibited areas hitherto in force was contained in the Second Schedule to the Aliens Restriction (Consolidation) Order, 1914. The present Order first gives a list of additional prohibited areas, and then, in an appendix, gives the list of prohibited areas as thus enlarged, to be substituted for the said Second Schedule.

5. An Admiralty Notice to Mariners, dated 1st February (No. 134 of the year 1916, cancelling No. 6 of 1916), relating to the English Channel, North Sea, and Rivers Thames and Medway (Pilotage and Traffic Regulations). Various regulations are made for compulsory pilotage.

The *London Gazette* of 8th February contains the following:—

6. A Foreign Office Notice, dated 6th February, making additions and corrections to the list of persons to whom articles to be exported to Siam may be consigned.

7. An Order, dated 5th February, to come into force on 14th February, of the Central Control Board (Liquor Traffic) for the Lancashire and Cheshire Area (see p. 255, *ante*). The following are the material provisions:—

*Hours during which intoxicating liquor may be sold.**A.—For Consumption ON the Premises.*

2. (1) The days and hours on and during which intoxicating liquor may be sold or supplied in any licensed premises or club for consumption on the premises shall be restricted and be as follows:—

*On Weekdays:* The hours between 12 noon and 2.30 p.m.; and

(a) In so much of the area as is within the County of Flint the hours between 6 p.m. and 9 p.m.

(b) In the rest of the area, the hours between 6.30 p.m. and 9.30 p.m.

*On Sundays:* (Except in so much of the area as is within the County of Flint) The hours between 12.30 p.m. and 2.30 p.m. and the hours between 6.30 p.m. and 9 p.m.

*B.—For Consumption OFF the Premises.*

(2) The days and hours on and during which intoxicating liquor may be sold or supplied in any licensed premises or club for consumption off the premises shall (subject to the additional restrictions as regards spirits) be restricted, and be the same in each case as the days and hours on and during which intoxicating liquor may be sold or supplied for consumption on the premises, except that in each case such sale or supply for consumption off the premises shall cease in the EVENING ONE HOUR EARLIER than the sale or supply for consumption on the premises.

The remaining provisions appear to follow the previous Orders, and prohibit treating, credit, and the long pull, and permit the dilution of spirits to a specified degree.

8. An Admiralty Order, dated 26th January, 1916, made under the Defence of the Realm Consolidation Act and Regulations, relating to pilots' licences and certificates.

9. An Admiralty Notice to Mariners (No. 142 of the year 1916), relating to English Channel, North Sea, and Rivers Thames and Medway (Pilotage and Traffic Regulations). The Notice cancels No. 134 of 1916, and reprints it with amendments to section 2 (Rivers Thames and Medway).

10. We print below the Proclamation, dated 10th February, calling up the first conscripts under the Military Service Act, 1916.

**Defence of the Realm Regulations.****ORDER IN COUNCIL.**

[Recitals.]

It is hereby ordered that the following amendments be made in the Defence of the Realm Regulations:—

1. After Regulation 39n the following Regulation shall be inserted:—

"39c. For the purpose of preventing congestion of traffic at ports and harbours in the United Kingdom, whereby the successful prosecution of the war may be endangered, it shall be lawful for the committee (called the Port and Transit Executive Committee) specially constituted for the purpose by the First Lord of the Treasury, to issue directions for regulating the traffic at such ports and harbours, subject, however, to any regulations or orders made

or given under Regulations 37, 38 or 39, and it shall be the duty of every dock and harbour company and authority to whom any such directions are issued, and they are hereby empowered, to comply with the directions, including any directions requiring the company or authority to discourage avoidable delay on the part of persons using the dock or harbour facilities by means of the imposition of additional charges for the user beyond such time as may under the circumstances of the case be reasonable, or by any other means."

2. The Regulation which by the Order in Council dated the twenty-seventh day of January, nineteen hundred and sixteen, was directed to be inserted after Regulation 13 shall be numbered 13A.  
3rd February.

## Army Reserve (Military Service Act, 1916).

### A PROCLAMATION.

Whereas by a Proclamation dated the 4th August, 1914, His Majesty in exercise of powers conferred on him by the Reserve Forces Act, 1882, ordered (The Right Honourable Herbert Henry Asquith), one of His Majesty's Principal Secretaries of State, from time to time to give, and, when given, to revoke or vary such directions as might seem necessary or proper for calling out the Army Reserve or all or any of the men belonging thereto.

And whereas under the provisions of the Military Service Act, 1916, certain persons will, on the 2nd March, 1916, be deemed to have been duly enlisted in His Majesty's Regular Forces for general service with the Colours or in the Reserve for the period of the war, and to have been forthwith transferred to the Reserve.

And whereas such Reservists have been assigned to Classes according to the year of their birth.

Now therefore I, Field-Marshal the Right Honourable Earl Kitchener, K.G., K.P., one of His Majesty's Principal Secretaries of State, do hereby direct as follows:—

Every Reservist under the Provisions of the Military Service Act, 1916, who belongs to any of the Classes mentioned in the subjoined Schedule is, unless an application for a certificate of exemption has been made and has not been finally disposed of, hereby required to report himself for the purpose of joining the Colours on such date and at such place as may hereafter be notified, or, if on or before the 17th day of March, 1916, he has not received any such notice, to report himself to the Commander of the Recruiting Sub-Area at the Recruiting Office nearest to his usual place of residence on the aforesaid 17th day of March, 1916.

A Reservist who fails without reasonable cause or excuse to comply with these directions will be guilty of an offence under the Reserve Forces Act, 1882 (45 and 46 Vic., Cap. 48).

### SCHEDULE.

Second Class, Men born in 1896	
Third Class " " 1895	
Fourth Class " " 1894	
Fifth Class " " 1893	
Sixth Class " " 1892	
Seventh Class " " 1891	
Eighth Class " " 1890	
Ninth Class " " 1889	
Tenth Class " " 1888	
Eleventh Class " " 1887	
Twelfth Class " " 1886	

Date on which  
the Classes will  
commence to be  
called up,  
3rd March,  
1916.

10th February, 1916.

## Increase of Rent and Mortgage Interest (War Restrictions), England.

THE INCREASE OF RENT AND MORTGAGE INTEREST (WAR RESTRICTIONS) RULES, 1916, DATED 29TH JANUARY, 1916, MADE BY THE LORD CHANCELLOR UNDER THE INCREASE OF RENT AND MORTGAGE INTEREST (WAR RESTRICTIONS) ACT, 1915 (5 & 6 Geo. 5, c. 97).

### Preliminary.

The following Rules under the Increase of Rent and Mortgage Interest (War Restrictions) Act, 1915 [5 & 6 Geo. 5, c. 97] (in these Rules referred to as the Act), shall apply to the County Courts and to the City of London Court, which shall for the purposes of these Rules be deemed to be a county court.

Rule 3 of these Rules, as to applications under the Courts (Emergency Powers) Act, 1914 [4 & 5 Geo. 5, c. 78], shall apply also to the High Court; and the rules made under that Act shall have effect subject to that Rule.

These Rules may be cited as the Increase of Rent and Mortgage Interest (War Restrictions) Rules, 1916, and shall come into operation on the fourteenth day of February, 1916.

Applications under Section 1, subsection 1, proviso (iii.); Section 1, subsection 4, proviso 2; or Section 2, subsection 3.

1. Applications under 5 & 6 Geo. 5, c. 97, sec. 1, subsec. 1, proviso (iii.); or sec. 2, subsec. 3. [Conf. Emergency Powers Rules, 10.]—An application to the county court under the Act—

(a) to determine any question as to the increase of rent of a dwelling house to which the Act applies, pursuant to proviso (ii.) to subsection 1 of section 1; or

(b) to apportion the rent or rateable value of the property in which any dwelling house to which the Act applies is comprised, pursuant to subsection 3 of section 2, may be made to the court in the district of which the dwelling house is situate.

2. Applications under sec. 1, subsec. 4, proviso 2.—An application to the county court under the Act for an order authorizing a mortgagee to call in and enforce a mortgage of a leasehold interest to which the Act applies, pursuant to the second proviso to subsection 4 of section 1, may be made—

(a) to the court in the district of which the mortgaged property is situate; or

(b) to the court in the district of which the mortgagor resides or carries on business; or

(c) if the mortgagee resides or carries on business in the district of any court mentioned in section 84 of the County Courts Act, 1888 [51 & 52 Vict. c. 43, s. 84], and the mortgagor resides or carries on business in the district of any other court mentioned in the said section, either to the court in the district of which the mortgagee resides or carries on business, or to the court in the district of which the mortgagor resides or carries on business.

3. Applications under Courts (Emergency Powers) Act, 1914 (4 & 5 Geo. 5, c. 78), and Rules, how affected by these Rules.—(1) Subject to the provisions of this Rule, the Courts (Emergency Powers) Rules, 1914, and the County Courts (Emergency Powers) Rules, 1914, as to applications to the High Court or to the county court for leave to foreclose or realize any security to which the Courts (Emergency Powers) Act, 1914, applies, shall cease to apply to mortgages of leasehold interests to which the Increase of Rent and Mortgage Interest (War Restrictions) Act, 1915, applies: and this Rule shall apply in lieu thereof.

(2) An application under the last preceding Rule for an order authorizing a mortgagee to call in and enforce a mortgage of a leasehold interest shall if and so far as an application for leave to foreclose or realize the security is required under the Courts (Emergency Powers) Act, 1914, be deemed to be also an application for leave to foreclose or realize the security under that Act, and no separate application under that Act shall be necessary.

(3) If during the progress of the proceedings on any such application it shall be made to appear to the court that the mortgage is one to which the Increase of Rent and Mortgage Interest (War Restrictions) Act, 1915, does not apply, but that leave to realize or enforce the security is required under the Courts (Emergency Powers) Act, 1914, and that the amount of the principal sum secured by the mortgage does not exceed five hundred pounds, the application may proceed in the county court as an application for leave to foreclose or realize the security under the last mentioned Act and the County Courts (Emergency Powers) Rules, 1914, and those rules shall apply accordingly; but if the amount of the principal sum secured by the mortgage exceeds five hundred pounds the application shall not proceed under the last mentioned Act, unless the respondent consents to the county court having jurisdiction in the matter, in which case the court shall have jurisdiction to deal with the application as an application for leave to foreclose or realize the security under the last mentioned Act and Rules, and those Rules shall apply accordingly.

(4) If it shall be made to appear to the court that the mortgage is one to which neither of the above mentioned Acts applies, the application shall be struck out.

4. Application by summons. Forms 1-3. [E.P. Rules, 11.]—An application under these Rules shall be made by means of a summons according to such one of the forms in the Appendix as shall be applicable to the case, entitled "In the Matter of the Increase of Rent and Mortgage Interest (War Restrictions) Act, 1915."

### Preparation, Filing, &c., of Summons.

5. Preparation, &c., of summons and copies. [E.P. Rules, 20.]—The summons shall be prepared by the applicant and filed with the registrar, with as many copies as there are parties to be served: Provided that any summons, with the necessary copies, may, if the registrar so thinks fit, be prepared in his office: and the registrar shall examine, complete, seal, and sign the summons and copies, and return the copies to the applicant for service.

### Service and Substituted Service.

6.—(1) Time for service.—The summons shall be served on every person affected thereby four clear days at least before the day fixed for the hearing of the summons, unless the judge or registrar gives leave for shorter service.

(2) Mode of service.—Service shall be effected in accordance with the provisions of Order LIV., Rules 2 and 3, of the County Court Rules as to service of notice of an interlocutory application.

(3) Substituted service.—The practice of the courts as to substituted service of summonses and notices shall apply to summonses under these Rules.

[E. P. Rules, 12, 15.]

### Applications to Registrar.

7. Application to registrar. [E. P. Rules, 16.]—Any application under these Rules may be made to the registrar, subject to the following provisions:—

(a) The registrar may in any case, and shall on the application

of either party, made on the hearing of the application, and before the registrar has given his decision, refer the matter to the judge :

(b) The judge may vary or rescind any determination or order made by the registrar, and may make such determination or order as may be just :

(c) An application for variation or rescission shall be made on notice in writing in accordance with the County Court Rules as to interlocutory applications; and the notice shall be filed within four clear days from the date of the determination or order of the registrar, and if it is not so filed no such application shall be allowed to be made without leave of the judge.

#### *Evidence in Support of Application.*

8. *Evidence in support of application.* [E. P. Rules, 17; Army Act Rule, Order L., Rule 14 (5).]—No affidavit in support of the application shall be used, except by leave of the court, but the court shall hear oral evidence tendered by either party.

#### *Power to hear Cases in Private.*

9. *Power to hear cases in private.* [E. P. Rules, 18.]—The court may at any stage of the proceedings on an application under the Act order that the case shall thenceforward be heard in private.

#### *Transfer of Proceedings.*

10. *Transfer of proceedings.* 51 & 52 Vict. c. 43, ss. 75, 85. C.C. Rules, Order VIII., Rule 9.]—If during the progress of the proceedings on any application it shall be made to appear to the judge that the same could be more conveniently heard in some other court, it shall be competent to the judge to transfer the same to such other court; and in any such case the provisions of section 85 of the County Courts Act, 1888, and of Order VIII., Rule 9, of the County Court Rules shall apply.

#### *Determination of Questions submitted.*

11. *Determination of questions submitted.* [Conf. Army Act Rule, Order L., Rule 14 (6).]—On the hearing of the application, or at any adjournment thereof, the court, on proof of the service of the summons, if the respondent does not appear, shall—

(a) determine the question as to the increase of rent of the dwelling house; or

(b) apportion the rent or rateable value of the property in which the dwelling house is comprised; or

(c) make or refuse an order authorizing the mortgagee to call in and enforce the mortgage; or

(d) make such other determination or order in the matter as the court shall think fit.

#### *Power to impose Conditions.*

12. *Power to impose conditions on application by mortgagee.* [Conf. E. P. Act, s. 1 (2); E. P. Rules, 22.]—On an application for an order authorizing a mortgagee to call in and enforce a mortgage, the court may, after considering all the circumstances of the case and the position of all the parties, make or refuse to make the order subject to such conditions as the court may think fit.

#### *Certificates or Orders on Applications.*

13. *Certificate or order on application.* [E. P. Rules 21; Army Act Rule, Order L., Rule 14(6).]—When the court has given its decision on any application, a certificate of the determination of the court, or, in the case of an application for an order authorizing a mortgagee to call in and enforce a mortgage, an order in accordance with the decision of the court, shall be prepared and sealed and signed by the registrar, and duplicates thereof shall be delivered to the bailiff, who shall within

twenty-four hours send the same, by post or otherwise, to the parties; but it shall not be necessary for the party in whose favour a certificate or order is made to prove, previously to taking proceedings thereon, that it was posted or reached the opposite party.

#### *Revocation or Variation of Orders.*

14. *Power to revoke or vary orders* [E. P. Rules, 23.]—Any determination or order made under the Act and these Rules may, should subsequent circumstances render it just so to do, be suspended, discharged, or otherwise varied by the court in which the determination or order was made, on application made on notice in writing in accordance with the County Court Rules as to interlocutory applications.

#### *General Provisions as to Procedure on Applications.*

15. *Ordinary practice of the court to be followed.*—Subject to the provisions of the Act and these Rules, the practice and procedure of the court in an action, and in particular the practice and procedure with respect to the summoning of witnesses, and on an application for the apportionment of rent or rateable value, or for an order authorizing a mortgagee to call in and enforce a mortgage, with respect to discovery and inspection of documents, shall, with the necessary modifications, apply to proceedings on an application under the Act. [Conf. E. P. Rules, 26; Army Act Rule, Order L., Rule 14 (8).]

16. *Fees.* [Conf. E. P. Rules, 25.]—(1) The following fees shall be payable under Schedule B, Part I., of the Treasury Order regulating Fees in the County Courts, on applications under the Act and these Rules, in lieu of all other fees on such proceedings, viz. :—

On an application for the determination of a question as to the increase of rent of a dwelling house—6d. in the £ or part of a £, calculated on 4 weeks' standard rent of the dwelling house, but not exceeding 2s. 6d.

On an application for the apportionment of rent or rateable value, 10s.

On an application for an order authorizing a mortgagee to call in and enforce a mortgage, 20s.

The foregoing fees shall include drawing, sealing, and issuing the certificate or order, and the fee prescribed by paragraph 12 of Part I. of Schedule B of the Fees Order shall not be taken.

(2) On summonses to witnesses, the fees prescribed by Schedule A of the Fees Order shall be taken.

(3) On applications for discovery or inspection of documents, and on applications for variation of certificates or orders, the fees prescribed by paragraphs 10 and 12 of Part I. of Schedule B of the Fees Order shall be taken.

(4) The court may remit or excuse in whole or in part any fee paid or payable under this Rule.

#### *Costs.*

17. *Costs.* [E. P. Rules, 27.]—(1) The costs of any application under the Act and these Rules shall be in the absolute discretion of the court. (2) The court may either fix the amount of such costs, or allow them on the scale applicable to an interlocutory application in an action for an amount equal to—

(a) in the case of a question as to the increase of rent, the amount on which fees are payable under Rule 16; or

(b) in the case of an application to apportion rent or rateable value, one-half of the annual rent or rateable value apportioned to the dwelling house; or

(c) in the case of an application for an order authorizing a mortgagee to call in and enforce the mortgage, the amount of the principal sum secured; Provided that Column B of the Scale shall apply in all cases above twenty pounds, to the exclusion of Column C.

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(3) Where the amount does not exceed ten pounds, there may be allowed for all work done by a solicitor in relation to the application—

	s.	d.
If the amount exceeds £2 but does not exceed £5	...	6 8
If the amount exceeds £5 but does not exceed £10	...	10 0

(4) The court may direct that any costs allowed shall be payable by the opposite party, or, in the case of an application for an order authorizing a mortgagee to call in and enforce a mortgage, that they shall be included in the security; and any order directing payment of costs shall be included in the certificate or order, and shall be enforceable in the same manner as an order for payment of costs made in an action.

### Forms.

18. Forms. [E. P. Rules, 19.]—(1) The forms in the Appendix hereto, with such modifications as may be necessary, shall be used for summonses, certificates and orders under the Act and these Rules.

(2) The registrar of any court may apply to the Treasury for any of the said forms to be printed and supplied to him, and if the application is granted may obtain such forms and supply the same without charge for the use of parties requiring the same.

### Proceedings for the Recovery of Rent or Mortgage Interest, or for the Recovery of Possession of Tenements or Ejectment of Tenants.

19. On proceedings for recovery of rents or mortgage interest, or for recovery of possession or ejectment, regard to be had to sec. 1 of Act.—Where proceedings are taken in the county court for the recovery of rent of any dwelling house to which the Act applies, or of interest on a mortgage to which the Act applies, or for the recovery of possession of any dwelling house to which the Act applies, or for the ejectment of a tenant from any such dwelling house, the court shall, before making an order for the recovery of such rent or interest, or for recovery of possession or ejectment, satisfy itself that such order may properly be made, regard being had to the provisions of section 1 of the Act.

20. Applications for rescission or variation of orders under sec. 1, subsec. 3.—An application to the court for the rescission or variation, pursuant to subsection 3 of section 1 of the Act, of an order for recovery of possession or ejectment made but not executed before the passing of the Act, may be made on notice in writing in accordance with the County Court Rules as to interlocutory applications.

The 29th day of January, 1916.

(Signed) BUCKMASTER, C.

We, the undersigned, two of the Commissioners of His Majesty's Treasury, do hereby, with the consent of the Lord Chancellor, order that the several fees specified in Rule 16 of the foregoing Rules shall be taken on the proceedings therein mentioned, in lieu of all other fees for the proceedings therein set forth.

(Signed) GEO. H. ROBERTS.  
GEOFFREY HOWARD.

I concur in the above order as to fees.

(Signed) BUCKMASTER, C.

The 4th day of February, 1916.

### APPENDIX.

#### Summons for Determination of Question as to Increase of Rent.

1.

In the County Court of \_\_\_\_\_, holden at \_\_\_\_\_  
In the Matter of the Increase of Rent and Mortgage Interest (War Restrictions) Act, 1915.

No. of Application \_\_\_\_\_

Between \_\_\_\_\_

A.B.  
(address and description)

Applicant,

and \_\_\_\_\_

C.D.  
(address and description)

Respondent.

To \_\_\_\_\_

of \_\_\_\_\_  
TAKE NOTICE, that you are hereby summoned to attend this Court on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, at the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon, on the hearing of an application on the part of \_\_\_\_\_, of \_\_\_\_\_, for the determination, pursuant to the above-mentioned Act, of a question which has arisen as to the increase of rent of a certain dwelling house [or of part, that is to say (here specify the part)]

of a certain dwelling house], to which the said Act applies, situate at \_\_\_\_\_

and known as \_\_\_\_\_

of which the applicant is the tenant and you the respondent are the landlord [or of which you the respondent are the tenant and the applicant is the landlord], on the transfer to the tenant of certain burdens and liabilities previously borne by the landlord [or in respect of the transfer to the landlord of certain burdens and liabilities previously borne by the tenant],

and for an order providing for the costs of the application.

AND FURTHER TAKE NOTICE, that if you do not attend in person or by your solicitor at the time and place above mentioned such proceedings will be taken and determination made as the Court may think just.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ By the Court,  
Registrar.

To (the respondent, naming him).

2.

Summons for Order authorizing Mortgagee to call in and enforce Mortgage.

In the County Court of \_\_\_\_\_, holden at \_\_\_\_\_  
In the Matter of the Increase of Rent and Mortgage Interest (War Restrictions) Act, 1915.

No. of Application \_\_\_\_\_

Between \_\_\_\_\_

A.B.  
(address and description)

Applicant,

and \_\_\_\_\_

C.D.  
(address and description)

Respondent.

To \_\_\_\_\_

of \_\_\_\_\_  
TAKE NOTICE, that you are hereby summoned to attend this Court on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, at the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon, on the hearing of an application on the part of \_\_\_\_\_, of \_\_\_\_\_, for an order that, notwithstanding the provisions of the above-mentioned Act, the said \_\_\_\_\_ may be at liberty to call in and enforce a certain mortgage to which the said Act applies, dated the \_\_\_\_\_ day of \_\_\_\_\_, granted by you the respondent to the applicant [or to \_\_\_\_\_ and assigned by him to the applicant] on certain leasehold property situate at \_\_\_\_\_, and known as \_\_\_\_\_

on the ground that the security is seriously diminishing in value or is otherwise in jeopardy, and that for that reason it is reasonable that the mortgage should be called in and enforced,

and for an order providing for the costs of the application.

AND FURTHER TAKE NOTICE, that if you do not attend in person or by your solicitor at the time and place above mentioned such proceedings will be taken and order made as the Court may think just.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

By the Court,  
Registrar.

To (the respondent, naming him).

(To be continued.)

## Aliens Restriction Amendment Order.

### ORDER IN COUNCIL.

Whereas by the Aliens Restriction (Consolidation) Order, 1914 (hereinafter referred to as the Principal Order), the Aliens Restriction (Belgian Refugees) Order, 1914, the Aliens Restriction (Amendment) Order, 1915, and other Orders in Council, His Majesty has been pleased to impose restrictions on aliens, and to make various regulations for carrying those restrictions into effect:

And whereas it is expedient to amend and extend the provisions of those Orders in manner hereinafter appearing:

Now, therefore, His Majesty is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:—

#### Extension of Article 19 of Principal Order.

1. As from the fourteenth day of February, nineteen hundred and sixteen, Article 19 of the Principal Order (which imposes certain requirements as to registration of aliens residing in prohibited areas) shall be extended so as to impose the same requirements as respects aliens, wherever resident; and accordingly that Article shall have effect as though the words "residing in a prohibited area, and an alien enemy," were omitted therefrom:

Provided that—

(a) a Secretary of State may by order direct that in any areas specified in the order, the said Article as amended by this Article

shall not apply in respect of that area to alien friends resident in the area at the date when this Article comes into operation; and  
(b) the said Article as amended by this Article shall not apply in the case of Belgian refugees.

*Additional Restrictions on Aliens in respect of Prohibited Areas.*

2. The following Article shall, as from the date fixed thereunder, be substituted for Article 2 of the Aliens Restriction (Amendment) Order, 1915:—

(1) As from such date as may be fixed by order of a Secretary of State an alien shall not, without the special permission of the Registration Officer, enter or be in any prohibited area unless he has in his possession an identity book obtained in pursuance of this Order and duly filled in and attested:

Provided that—

(a) where an alien is at the date of this Order resident and duly registered in a prohibited area, this provision shall not apply to him in respect of that area so long as he is resident therein;

(b) a Secretary of State may exempt from the provisions of this Article any class of aliens, where he is satisfied that satisfactory means are provided for their identification, other than the possession of an identity book; and

(c) an alien coming from any place out of the United Kingdom and landing in the United Kingdom without an identity book may, subject to the provisions of the Principal Order, be allowed to proceed to his destination in the United Kingdom if the passport or other document with which he is required to be furnished on landing in the United Kingdom contains, or if he supplies, such of the particulars contained in the schedule to this Order as may be required by an aliens officer; but any such alien shall proceed directly to his destination, and on arriving there shall, within twenty-four hours, comply with all the provisions which are applicable to him of the Principal Order, as amended by any subsequent Order, including this Order; and

(d) this Article shall not apply to an alien who enters or is in a prohibited area for the sole purpose of immediate embarkation at a port therein; and

(e) this Article shall not apply to an alien who appears to be under the age of eighteen and is in the care of some other person who is over that age.

If any alien when so required by any officer, or by any soldier or sailor engaged on sentry patrol or other similar duty, or by any aliens officer or police constable, fails to produce his identity book at any time when he is required to be in possession of the same under this Article, he may, without prejudice to any other penalty, be detained pending the making of enquiries as to his identity, and whilst so detained shall be deemed to be in legal custody.

(2) Subject to the special or general instructions of a Secretary of State, any alien who has after this Article comes into operation entered a prohibited area in which he was not resident at the date of this Order may be ordered by the registration officer for that area to leave the area forthwith, and not to enter that area subsequently without his special permission; any such order shall be entered in the aliens' identity book, and the alien shall comply with the order.

(3) Where any such special permission of a registration officer, as aforesaid, has been granted subject to any conditions, and the person to whom it is granted fails to comply with any such condition, he shall be deemed to be guilty of a contravention of the Principal Order.

(4) This Article shall have effect as if it were included in Part II: of the Principal Order, and that Order shall have effect accordingly.

*Identity Books.*

3. An identity book shall be in the form described in the schedule to this Order, and the provisions contained in that schedule shall have effect with respect to identity books.

If any person uses for the purposes of this Order an identity book relating to any person other than himself, or, in filling in the particulars contained in an identity book, or for the purpose of obtaining an identity book, makes any false statement or false representation, he shall be deemed to have acted in contravention of the Principal Order.

*Duties of Hotel-Keepers, &c.*

4. (1) Article three of the Aliens Restriction (Amendment) Order, 1915, shall have effect as though the following provisions were substituted for subsections (1) to (4) inclusive thereof:—

3.—(1) It shall be the duty of the keeper of every hotel, inn, boarding-house, and lodging-house, to keep a register of all persons over the age of fourteen years staying at the hotel, inn, boarding-house, or lodging-house, who are aliens.

The keeper of every such hotel, inn, boarding-house, or lodging-house shall, as soon as may be after any such person comes to stay at the hotel, inn, boarding-house, or lodging-house, enter his name and nationality in the register, together with the date of his arrival; and on the departure of any such person he shall, as soon as may be, enter the date of his departure and his destination on departure in the register, and he shall also enter in the register from time to time such other particulars as may be prescribed by a Secretary of State, and if the keeper of an hotel, inn, boarding-house, or lodging-house, fails to comply with any of the foregoing provisions of this Article, or if he makes any entry in any such register which he knows or could by the exercise of reasonable diligence have ascer-

tained to be false, he shall be deemed to be guilty of a contravention of the Principal Order.

(2) The keeper of every hotel, inn, boarding-house, or lodging-house shall also, if directions for the purpose are issued by a Secretary of State, make to the registration officer of the registration district in which the hotel, inn, boarding-house, or lodging-house is situate, such returns as to the persons staying at the hotel, inn, boarding-house or lodging-house, at such times or intervals, and in such form as may be specified in such directions, and if he fails to do so, or makes any false return, he shall be deemed to be guilty of a contravention of the Principal Order.

(3) It shall be the duty—

(a) of the keeper of every hotel, inn, boarding-house and lodging-house, with a view to ascertaining whether any person staying at the hotel, inn, boarding-house, or lodging-house is or is not an alien, to require every person (whether an alien or not) who stays at the hotel, inn, boarding-house, or lodging-house to furnish to him in such form as may be prescribed by the Secretary of State the particulars contained in that form; and

(b) of every person (whether an alien or not) to furnish the said particulars when so required.

If the keeper of any hotel, inn, boarding-house or lodging-house fails to require any person staying at the hotel, inn, boarding-house or lodging-house to furnish such information as aforesaid, he shall be deemed to be guilty of a contravention of the Principal Order; and if any person staying at the hotel, inn, boarding-house or lodging-house fails to give any information when so required, or gives any false information, he shall be deemed to be guilty of a contravention of the Principal Order.

(4) Every register kept under this Article, and all particulars furnished under this Article, shall at all reasonable hours be open for inspection by any officer of police or by any person authorised by a Secretary of State.

(2) In the application of Article (3) of the Aliens Restriction (Amendment) Order, 1915, as amended by this Order, to hostels or other boarding-houses in which Belgian refugees are lodged, the manager or secretary, or any other person charged with the management of the hostel or boarding-house, shall, whether he receives payment or not, be deemed to be the keeper thereof.

*Short Title.*

5. This Order may be cited as the Aliens Restriction (Amendment) Order, 1916.  
27 January.

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## SCHEDULE.

## IDENTITY BOOKS.

1. An identity book shall be in such form as the Secretary of State may prescribe.
2. An identity book shall not be issued to any person who has already obtained one unless he surrenders his former book or gives a satisfactory explanation of the circumstances which prevent him doing so.
3. An identity book shall not be issued to an alien who has come to the United Kingdom since the beginning of the war unless he produces a passport issued to him not more than two years previously by or on behalf of the Government of which he is a subject or citizen, or gives a satisfactory explanation of the circumstances which prevent his doing so.
4. There shall be payable in respect of each identity book issued a fee of one shilling.
5. There shall be entered in the identity book the following particulars with respect to the applicant, which shall be filled in by the applicant, attested by two householders of British birth, and certified by a police officer, in the manner hereinafter shown:—

## PARTICULARS.

## I.

The particulars which an alien is required to furnish on registration (*to be set out verbatim*).

## II.

The following further particulars—

- (a) If present nationality not acquired at birth, state how acquired (*a*), and original nationality.
  - Name and nationality (*b*) of father.
  - Maiden name and nationality before marriage of mother.
  - Nationality before marriage of wife.
  - Whether possessed of a Passport (*c*).
  - Particulars of last entry into United Kingdom (*d*) [or has not been absent from the United Kingdom since 4th August, 1914].
  - Whether applicant has previously had an identity book [If book lost or destroyed state name of registration or police district in which it was issued].
  - Particulars of convictions (if any) of offences against the Regulations for the Defence of the Realm, or the Aliens Restriction Orders, or the laws relating to trading with the enemy.
- (a) e.g., by naturalisation or by marriage.
  - (b) If father's nationality was not acquired at birth, state how it was acquired and original nationality.
  - (c) Give particulars, e.g., number and date and place of issue.
  - (d) Dates and ports of departure and arrival to be stated.
- Whether applicant has or has had any male relatives in arms for or against Great Britain or her Allies during the present war [if so, state names and relationship].
- I declare the foregoing particulars to be true.

Signature

We, being natural-born British subjects and householders, certify that the above particulars were signed by in our presence, and that to the best of our knowledge and belief they are true, and that the photograph attached is a photograph of him [her].

Signature

(Address)

Signature

(Address)

6. An identity book shall contain the following statement to be signed by a duly authorised police officer:—

I certify that this identity book was produced to me duly filled up and attested, that the description and photograph [or fingerprints] (*a*) which appear therein are those of that his [her] present address is correctly given, and that the said

signed below in my presence.

Signature

Rank

Police Station

Police District

Signature of applicant

7. The Secretary of State may from time to time make such alterations in the form of identity books, or in the provisions of this Schedule, as he may think fit.

(a) The photograph and finger prints, if taken, must be identified by the stamp or the signature of the certifying officer.

## Income Tax Allowance on Exchequer Bonds.

The Treasury announce that dividends on Exchequer Bonds issued through the Post Office and left in the custody of the Post Office will be paid without deduction of income tax, provided that the nominal value of the bonds so deposited by an investor, together with any War Stock he may hold on the Post Office Register, does not exceed £200.

## Military Authorities under Defence Regulations.

By an Army Order issued on 4th February the Army Council, under the powers conferred on them by Regulation 62 of the Defence of the Realm Regulations, have appointed the following officers to be Competent Military Authorities for the purposes of the Regulations—namely, the Field-Marshal Commander-in-Chief of the Home Forces and the Defence Commanders of Nos. 1, 2, 3, and 4 Lines of Communications.

They further authorize these officers to delegate either unconditionally, or subject to such conditions as they think fit, all or any of their powers to any officer under their command qualified to be a Competent Military Authority.

## Excess Profits and Claims.

The Board of Referees (Finance (No. 2) Act, 1915) appointed to consider appeals and applications in respect of the excess profits duty, under the chairmanship of the Right Hon. H. E. Duke, K.C., M.P., were to enter their offices at 133, Strand, W.C., on Thursday, 10th February, and proceed to consider forthwith any appeals and applications which may be made to them through the Commissioners of Inland Revenue. All correspondence should be addressed to the Registrar, Board of Referees (Finance (No. 2) Act, 1915), the Refuge Assurance Building, 133, Strand, W.C.

The Royal Commissioners on Defence of the Realm Losses and Defence of the Realm (Licensed Trade Claims), of which Mr. Duke is also chairman, will move into fresh offices in the same building on the same date. All correspondence in connection with either Commission should be addressed to the Secretary of the Commission, at the Refuge Assurance Building, 133, Strand, W.C.

## The Trading with the Enemy Amendment Act, 1916.

The Board of Trade have appointed Mr. Ernest R. Moon, C.B., K.C. (chairman), the Hon. John D. FitzGerald, K.C., Sir George Croydon Marks, M.P., and Mr. Gershom Stewart, M.P., to be a committee to advise them on matters arising under the Trading with the Enemy Amendment Act, 1916.

The secretary to the committee is Mr. W. P. Bowyer.

All communications should be addressed to the Board of Trade, 38-39, Parliament-street, S.W.

Mr. Ernest Moon, K.C., the chairman, has been Counsel to the Speaker since 1908; he is a Bencher of the Inner Temple. Mr. FitzGerald is a well-known member of the Parliamentary Bar. Sir George Croydon Marks, the member for the Launceston Division, is a consulting engineer and patent expert, and senior partner of Marks & Clerk, consulting engineers. Mr. Gershom Stewart, who represents the Wirral Division, was engaged in business in the Colony of Hong-Kong from 1882 to 1906.

## Naturalized Shareholders of Enemy Origin in Australia.

The High Commissioner for Australia, Mr. Andrew Fisher, on Wednesday received a telegram giving particulars of the Statutory Rules made under the War Precautions Act. The rules deal particularly with shares held in companies incorporated in Australia by naturalized persons of enemy origin. They provide:—

All naturalized persons of enemy origin, unless exempted by the Attorney-General, and all enemy subjects are required to transfer to the Public Trustee, before 16th April next, shares held by them in companies incorporated in Australia.

A Public Trustee is to be appointed by the Government, and is to have authority to hold shares for twelve months after the end of the war or to sell them, at the request of the transferor or by direction of the Attorney-General.

"Naturalized person of enemy origin" means a person who, having been a subject of a country with which the United Kingdom is now at war, is a naturalized British subject by virtue of a certificate of naturalization issued in any part of the British Dominions to himself, father, or mother, or, in the case of a married woman, to her husband, and includes the wife of any such naturalized person.

The regulations apply to the London Register of Australian Companies equally with the Australian Register.

## Indictments Act, 1915.

For the purposes of this Act I do, pursuant to section 2 sub-section 1, appoint to act with myself, a Rule Committee as follows: The Honble. Mr. Justice Avory, Sir Robert Wallace, Chairman of Quarter Session, County of London; R. D. Muir, Esq., Recorder of Colchester; Sir Herbert Stephen, Bart., Clerk of Assize of the Northern Circuit; W. B. Prosser, Esq., Clerk of the Peace for the County of Kent, Herbert Austin, Esq., Clerk of the Central Criminal Court.

(Signed) READING, C.J.

Dated this 1st day of February, 1916.

## Societies.

### Solicitors' Benevolent Association.

The directors of this association held their monthly meeting at the Law Society on the 9th inst., the directors present being: Mr. Wm. C. Blandy (Reading), in the chair; and Messrs. F. E. F. Barham, G. H. Bower, T. S. Curtis, A. Davenport, W. Dowson, W. E. Gillett, C. Goddard, J. R. B. Gregory, C. G. May, R. S. Taylor, M. A. Tweedie, R. W. Tweedie, and W. M. Walters. £378 was distributed in grants of relief, seventeen new members were elected, and other general business transacted.

### The Union Society of London.

The ninth meeting of the 1915-1916 session of the above society was held at the chambers of Mr. W. R. Willson, 3, Plowden-buildings, Temple, on Wednesday, 9th February, 1916, at 8 p.m. Mr. Kingham was in the chair. Mr. Willson moved, "That the scope and functions of International Law as at present conceived are too wide and should be restricted." Mr. Stranger opposed. There also spoke: Mr. Quass, Mr. Geen, Mr. Eustace, Mr. Thomas, Mr. Morden, and Mr. Kingham. The motion was carried.

## An Austrian Protest Against Aircraft.

The only paper in the German tongue, says the *Times*, which has dared to utter a word of criticism on Zeppelin raids, is the Vienna Socialist organ, the *Arbeiter Zeitung*. After some remarks on the horrors of war, the journal asks why it is necessary to increase them. With regard to the German talk of reprisals, it says that it is no longer possible to decide what was the beginning of an attack and at what point "reprisals" began. The article proceeds:—

Everybody must be compelled to ask whether it would not be far better if this bomb-throwing were absolutely excluded from the war. The airmen are, of course, of the greatest importance, and one may even say that the possibility of obtaining definite information in due time about the enemy's procedure makes the war in a certain sense more humane, because it removes the element of cunning and of surprise. But all military observers agree that the damage done by bombs, and the death produced from the air, cannot possibly be of serious account in view of the gigantic proportions of this war.

And can one seriously think that these methods can spread the sort of panic which would lead to the shortening of the war? No experience of the war supports this belief. On the contrary, all experience shews that the passions of war are inflamed afresh by these raids. Looking at the matter from the purely sober view of the balance of advantages and disadvantages, one must say that it would be a good thing for all belligerents if all bomb-throwing from airships were to be condemned and to be made impossible. God knows that it would be sufficient for mankind to fight on the earth and on the water, and for us to be spared death from the air.

## Aircraft Damage.

A meeting of representatives of local authorities from the East Coast towns and extra-Metropolitan London districts on the subject of the Government scheme of insurance against damage by hostile aircraft and

bombardment was, says the *Times*, held on the 4th inst. at the Mansion House, the Lord Mayor presiding.

The Lord Mayor said the Government scheme had no doubt been, in many cases, a great relief from anxiety, but it operated unequally and unfairly on the inhabitants who were frequently imperilled by these detestable air raids or who suffered losses, sometimes ruinous, from actual damage and from loss of business occasioned by fear of raids. There were many arguments in support of the view that material damage should be borne nationally out of the Imperial Exchequer, and it would do no harm to invite Mr. Runciman to hear a deputation on the subject.

Mr. F. Henderson (Norwich) moved a resolution declaring: That inasmuch as many of those parts of the country, particularly on the East Coast, in which the risk of damage by hostile aircraft and bombardment and the consequent need for insurance are greatest have already suffered and are likely to suffer severe financial loss and depression in consequence of the war, and many of the inhabitants of those districts are so impoverished thereby as to be quite unable to pay the premium for such insurances, the Government scheme is unfair in its incidence and constitutes, in effect, a special war tax on those who are least able to bear it, and that the expense of such damage should be borne nationally out of the Imperial revenue.

Alderman Allen (Croydon) seconded the motion, which was unanimously agreed to; and it was resolved to ask the President of the Board of Trade to receive a deputation.

## Obituary.

### Mr. John R. B. Roberts.

Second Lieutenant JOHN R. B. ROBERTS, younger son of Mr. J. R. Roberts, magistrates' clerk for Newcastle, and the editor of "Stone's Justices' Manual," was killed in France on 1st February. He was educated at Charterhouse and Pembroke College, Cambridge, and was reading for the Bar when the war broke out. He was originally a private in the 6th Northumberland Fusiliers (T.F.), and went to the front in April last year with his regiment, passing through some of the heaviest fighting. He received his commission in the 4th Northumberland Fusiliers (T.F.) in September, 1915. He was home on leave in Newcastle recently, returning to the front about a month ago.

### Mr. Rupert A. Evans.

Second Lieutenant RUPERT AUCRUM EVANS, West Yorkshire Regiment, was accidentally killed on 25th January in discharge of his duties as grenadier officer in Northumberland, aged twenty-four. He was the youngest son of the late Mr. Patrick F. Evans, Recorder of Newcastle-under-Lyme, and Mrs. Patrick Evans, of 54, Longridge-road, S.W., and Lower Sopey, Worcestershire. He was educated at The Grange, Folkestone, Charterhouse, Godalming, and Trinity College, Cambridge. At Charterhouse he gained a senior scholarship and a leaving exhibition. At the university he took a first class in Parts I. and II. of the Law Tripos. He passed the Bar final examination, taking the first place in the first class in March, 1914, and gained the certificate of honour at the Inner Temple. He joined the Honourable Artillery Company as a private on the outbreak of war, rising to the rank of sergeant. He went abroad with his regiment in September, 1914, and served at the front from November, 1914, to July, 1915. On 26th August, 1915, he received a commission in the 3rd Prince of Wales's Own (West Yorkshire Regiment). He afterwards gained his grenadier certificate, becoming bombing instructor to his battalion. He was a keen sportsman and much interested in forestry, natural history, and all country pursuits.

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X

X

## Legal News.

### Appointment.

Lord MUIR-MACKENZIE has been appointed independent chairman of the South Wales Coal Conciliation Board, in succession to Lord St. Aldwyn.

### Changes in Partnerships.

#### Dissolution.

LAURENCE DESBOROUGH, MONTAGUE WILLIAM DESBOROUGH, and ILLTYD MOLINE PRICHARD, solicitors, at 13, Queen-street, Cheapside, in the city of London. Jan. 1, 1909. From that date the said business has been carried on by the said Montague William Desborough, and will in future be so carried on, under the style or firm of Desborough and Son. [Gazette, Feb. 4.]

ALFRED PEARSON and VICTOR BARNETT PARKER, solicitors (Pearson, Parker, & Co.), 435, Corn Exchange-buildings, in the city of Manchester. Jan. 31. [Gazette, Feb. 8.]

### General.

The first sitting of the Prize Court since the President's accident on 7th December was held on Wednesday at 11, Lancaster-gate, when his Lordship was able to sit for the adjudication of twelve cases. These he disposed of in about an hour. The court was held in the President's drawing-room.

The Right Hon. Sir Arthur Wilson, P.C., K.C.I.E., aged seventy-eight, of The Moorings, Heathside, Woking, formerly a judge of the Calcutta High Court, and afterwards legal adviser and solicitor at the India Office, Vice-Chancellor of Calcutta University, 1880, left unsettled property of the value of £5,012.

Judge Sir William Selfe, at West London County Court, on Wednesday, during the hearing of a case under the Workmen's Compensation Act, remarked, "The matter could easily have been settled for a few pounds, yet we have a medical referee brought here as well as counsel and several medical men on both sides. It's positively disgraceful."

Sir Edward Carson has, on the advice of his doctor, been obliged to cancel all engagements for the next few weeks. No correspondence will be forwarded. Urgent letters should be addressed to his secretary, Mr. Pembroke Wicks, 1, Garden-court, Temple, E.C. It is stated that Sir Edward Carson is not suffering from any specific illness. In his doctor's opinion he is simply tired out by the strain of the last four years, and there is every reason to hope that a rest cure of four or five weeks will completely restore his health.

The Rev. William Oakley Milles Lechmere Lechmere, of Clayton House, Newick, Sussex, who died on 19th April last, left estate of the gross value of £26,444, of which £22,206 is net personality. He left one-fourth of the residue of his estate to the Railway Benevolent Institution, stating, "I make this bequest in recognition of what a shareholder owes to his fellows, the employees of railways"; one-eighth to the Hon. Society of the Middle Temple, "of which my family has had ancient connection and of which I am a member," for a scholarship in English law; one-eighth to the Provost and Fellows of Oriel College, Oxford, for a classical scholarship; and the remaining half among three London hospitals.

The *Times* reprints the following from its issue of 6th February, 1816:—Elm-court, Temple.—Compact Set of Chambers, with Possession.—By Messrs. Robins, at the Auction Mart, on Wednesday, Feb. 21, at twelve: A very pleasant Set of Chambers, overlooking the Fountain, and contiguous to Middle Temple Hall, being on the one pair of No. 1, Elm-court; containing a dining-room, bed-chamber, office, cellar, &c. The whole in most excellent order, and the purchaser may be accommodated with the adapted Furniture at a valuation. Held for a life (thirty-seven years old) which is insurable, and not subject to any rent. May be viewed by applying at the Head Porter's Lodge, in Middle Temple-lane, where particulars may be had fourteen days prior to the sale, and in Covent-garden.

Lord Bryce, presiding at Bedford College, Regent's Park, London, at the inauguration by Mrs. Mandell Creighton of a course of lectures on "The International Crisis: The Theory of the State," said that the war had shaken the foundations of the world of thought as well as the world of action. He continued: "We stand in this war for justice and for right, and we stand for humanity. From that position we must not depart. I do not myself believe for a moment that we shall gain anything by departing from it. If it comes to cruelty against cruelty the enemy would always win. I see no reason to think that any recourse to inhuman practices, shocking to philosophy and morality, which the enemy has adopted would have the slightest effect on him or promote in any way our military success. We should not gain; we should certainly lose, because there is nothing that has won for us more the approval and sympathy of all that is best in neutral nations than that we have championed the cause of justice and humanity. That is what nerves our arm, and has created a unity never paralleled in any previous crisis in our history."

Mr. William Joseph Fraser, of Emperor's Gate, South Kensington, and of Hove, Sussex, head of Fraser & Son, solicitors, Dean-street, Soho, W., who died on 12th January, aged seventy, has left estate of the gross value of £34,556, the net personality amounting to £17,314. In his will the testator states: "In consequence of the oppressive death and like duties imposed by Lloyd George Finance, I make no provision for the monthly allowance to my old servant Sarah Milburn." He desires, however, his wife and daughters to make her a voluntary allowance. In giving special directions for dealing with the shares of his daughters, he again refers to the difficulty of disposing of real estate consequent on the condition of the property market mainly due "to Lloyd George Finance and the unjust and oppressive land tax and valuations which have been so unfairly imposed."

What is understood to be the first case in London under the Increase of Rent and Mortgage Interest (War Restrictions) Act was heard, says the *Times*, at West London County Court, before Deputy Judge Woodcock, on Monday, when Mr. Chesemore, of New King's-road, Fulham, claimed possession of a house which he owned and which was next door to the one he was occupying. The rent had been paid regularly, but the plaintiff said he wanted to live at the house himself in order to do it up. He said he had not enough room in his own house, but in reply to the judge he admitted that the other house contained the same number of rooms, and that he had people living in his house upstairs. He did not want to make room for himself by getting rid of them. The judge said the question under the Act was whether the premises were "reasonably required" by the landlord, and in this case he was not satisfied they were. If the plaintiff had no lodgers he would have room in his own house. He should adjourn the case generally, with the declaration that the tenant was entitled to remain in possession so long as he paid his rent. He gave the defendant his costs, leaving the amount to be settled by the registrar.

At Bow-street Police Court, on Monday, Mr. Hopkins again had before him several cases in which drivers of motor-cars who had exceeded the speed limit in St. James's Park after dark were, in accordance with the policy recently adopted by the Commissioner of Police, summoned, not for that offence, but for driving at a speed dangerous to the public. In giving his decision in one case in which it was alleged that the defendant had driven down Constitution Hill at a rate of twenty-eight miles an hour, the magistrate said it afforded him an opportunity of expressing an opinion with respect to prosecutions of this kind. He doubted very much whether this section was not being used too stringently against the public. He would very much rather see a man summoned under this section for dangerous driving at five miles an hour across the entrance to some public building, such as a railway station, than he would see the police sent from Scotland Yard to set a trap in a place which they knew would be quiet and where motorists were likely to be going at a high speed. But he was bound to say that as long as it was thought fit to use the section in this way he did not see his way out of it. Having made his protest he had nothing more to say. The usual fines for exceeding the speed limit were imposed in each case.

"Old" Varsity men will be glad to know that they can still obtain their favourite Lounge Chair, one of the most delightful reminders of College days. On account of its luxurious comfort, remarkable durability and moderate cost, the Oxford Varsity Lounge Chair is ideal for study and smoking-room. Prices from 22s. 6d. to 35s. 6d., according to length. Patterns of the coverings post free. WILLIAM BAKER & Co., LTD., The Broad, Oxford.—(Advt.)

## The Property Mart

### Forthcoming Auction Sales

February 17.—Messrs. LESLIE, MARSH & Co., at the Mart: Leasehold Ground Rents (see advertisement, back page, this week).

February 22.—Messrs. HAMPTON & SONS, in conjunction with Messrs. TYLER, GREEN WOOD & Co., at the Mart, at 2: Long Leasehold Investments (see advertisement, back page, February 5).

## Court Papers.

### Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON			
EMERGENCY	APPEAL COURT	MR. JUSTICE	MR. JUSTICE
ROTA.	No. 1.	NEVILLE.	RYE.
Monday .. Feb. 14	Mr. Synges	Mr. Goldschmidt	Mr. Jolly
Tuesday .. 15	Church	Borror	Gr. swell
Wednesday .. 16	Farmer	Leach	Borror
Thursday .. 17	Bloxam	Church	Synges
Friday .. 18	Gresswell	Synges	Farmer
Saturday .. 19	Jolly	Farmer	Bloxam
MR. JUSTICE			
MR. JUSTICE	MR. JUSTICE	MR. JUSTICE	MR. JUSTICE
SARGANT.	ASTBURY.	YOUNGER.	PETERSON.
Monday .. Feb. 14	Mr. Borror	Mr. Bloxam	Mr. Farmer
Tuesday .. 15	Leach	Jolly	Synges
Wednesday .. 16	Gresswell	Synges	Bloxam
Thursday .. 17	Jolly	Farmer	Goldschmidt
Friday .. 18	Bloxam	Church	Leach
Saturday .. 19	Synges	Goldschmidt	Church
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			Gresswell

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